

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 1:16CR265

Akron, Ohio

Thursday, March 8, 2018

ERICK JAMAL HENDRICKS,

Defendant.

TRANSCRIPT OF TRIAL
VOLUME 5, PAGES 595 THROUGH 821
BEFORE THE HONORABLE JOHN R. ADAMS
UNITED STATES DISTRICT JUDGE

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1 (March 8, 2018 9:08 a.m.)

2 (Sealed proceedings, pages 597 through 607)

3 THE COURT: Counsel, are we ready?

4 At this time, I'm going to bring forward the jurors.

00:00:07 5 I'm provide them, as we discussed, some preliminary
6 instructions of law about the two charges, elements of
7 conspiracy to provide material support and resources to a
8 foreign terrorist organization, and as well as the other
9 count related to the other charge which we will set forth as
00:00:33 10 I've previously advised the parties.

11 Both sides have a copy of the preliminary
12 instructions. Just so it's clear for the record, does
13 anyone have any objection to the provisions or the
14 instructions I intend to provide the jurors at this time?

00:00:52 15 Counsel for the government?

16 MR. SHEPHERD: No, Your Honor.

17 THE COURT: Counsel for the defendant?

18 MR. DOUGHTEN: No, Your Honor.

19 THE COURT: All right. Then we'll proceed as
00:00:57 20 I've indicated as of yesterday.

21 Ms. Kestner, we'll ask that the jurors come forward,
22 please.

23 (Jury just a moment, when the jurors begin to enter
24 the courtroom, we would ask that you all please rise.

00:01:11 25 (Jury in, 9:10 a.m.)

1 THE COURT: Good morning, ladies and gentlemen,
2 thank you again for your service to the Court.

3 In a few moments, you're going to hear opening
4 statements from the attorneys. Before they begin with their
00:03:52 5 opening statements, I believe it would be helpful to you to
6 have a summary of certain instructions of law related to the
7 issues in this case.

8 I may give you further instructions during the course
9 of the trial, and I will provide you with more detailed
00:04:07 10 instructions at the end of the case.

11 Please listen carefully as best possible. I will
12 review these instructions with you at this time.

13 The elements of conspiracy to provide material support
14 and resources to a foreign terrorist organization.

00:04:24 15 The defendant is charged in Count 1 of the
16 superseding -- or we will call it indictment -- with
17 conspiracy to provide material support and resources to a
18 foreign terrorist organization.

19 In order for the defendant to be found guilty of this
00:04:39 20 crime, the government must prove each of the following
21 elements beyond a reasonable doubt:

22 First, from on or about December 1, 2014, through on
23 or about May 31, 2015, two or more persons reached an
24 agreement or came to an understanding to provide material
00:05:00 25 support or resources to a designated foreign terrorist

1 organization, namely, Islamic State of Iraq and the Levant,
2 ISIL, also known as the Islamic State of Iraq and Syria
3 ISIS, Al Qaeda and Iraq and the Islamic State.

4 And second, that the defendant became a member of the
00:05:23 5 conspiracy knowing of its object and intending to help
6 accomplish it.

7 Third, at the time the defendant knew that ISIL was a
8 designated foreign terrorist organization or engaged or was
9 engaging in terrorist activity or terrorism.

00:05:40 10 And fourth, the defendant is a national of the United
11 States, or the offense occurred in whole or in part within
12 the United States, or the offense occurred in or affecting
13 interstate or foreign commerce.

14 Agreement. With regard to the first element, a
00:05:59 15 criminal agreement, the government must prove that two or
16 more persons conspired or agreed to cooperate with each
17 other to commit the crime of providing material support or
18 resources to a designated foreign terrorist organization,
19 namely ISIL.

00:06:17 20 This does not require proof of any formal agreement,
21 written or spoken, nor does this require proof that everyone
22 involved agreed on all the details.

23 But proof that people simply met together from time to
24 time and talked about common interests or engaged in similar
00:06:35 25 conduct is not enough to establish a criminal agreement.

1 These are the things that you may consider in deciding
2 whether the government has proved an agreement, but without
3 more, they are not enough.

4 What the government must prove is that there was a
00:06:51 5 mutual understanding, either spoken or unspoken, between two
6 or more people to cooperate with each other to commit the
7 crime of providing material support or resources to a
8 designated foreign terrorist organization, namely ISIL.

9 This is essential.

00:07:09 10 An agreement can be proved indirectly by facts and
11 circumstances which lead to a conclusion that an agreement
12 existed. But it is up to the government to convince you
13 that such facts and circumstances existed in this particular
14 case.

00:07:25 15 Defendant's connection to the conspiracy. If you are
16 convinced that there was a criminal agreement, then you must
17 decide whether the government has proved that the defendant
18 knowingly and voluntarily joined that agreement.

19 To convict the defendant, the government must prove
00:07:43 20 that he knew the conspiracy's main purpose and that he
21 voluntarily joined it intending to help advance or achieve
22 its goals.

23 This does not require proof that a defendant knew
24 everything about the conspiracy or everyone else involved or
00:07:56 25 that he was a member of it from the very beginning. Nor

1 does it require proof that a defendant played a major role
2 in the conspiracy or that his connection to it was
3 substantial.

4 A slight role or connection may be enough. But proof
00:08:12 5 that a defendant simply knew about a conspiracy or was
6 present at times or associated with members of the group is
7 not enough even if he approved of what was happening or did
8 not object to it.

9 Similarly, just because a defendant may have done
00:08:29 10 something that happened to help a conspiracy does not
11 necessarily make him a conspirator.

12 These are all things that you may consider in deciding
13 whether the government has proved that a defendant joined a
14 conspiracy. But without more, they are not enough.

00:08:45 15 A defendant's knowledge can be proved indirectly by
16 facts and circumstances which lead to a conclusion that he
17 knew the conspiracy's main purpose. But it is up to the
18 government to convince you that such facts and circumstances
19 existed in this particular case.

00:09:02 20 Elements of attempting to provide material support and
21 resources to a foreign terrorist organization.

22 The defendant is charged in Count 2 of the indictment
23 with attempting to provide material support and resources to
24 a foreign terrorist organization, namely, the Islamic State
00:09:25 25 of Iraq and Levant, ISIL, also known as the Islamic State of

1 Iraq and Syria, ISIS, Al Qaeda and Iraq and the Islamic
2 State.

3 In order for the defendant to be found guilty of this
4 crime, the government must prove each of the following
00:09:42 5 elements beyond a reasonable doubt:

6 First, that the defendant attempted to provide
7 material support or resources to a foreign terrorist
8 organization; second, that the defendant knew or intended
9 that the support or resources was going to that
00:09:57 10 organization, commonly known as ISIL.

11 Third, at the time the defendant knew that ISIL was a
12 designated foreign terrorist organization or engaged or was
13 engaging in terrorist activity or terrorism.

14 And fourth, the defendant is a national of the United
00:10:18 15 States or the offense occurred in whole or in part within
16 the United States, or the offense occurred in or affecting
17 interstate or foreign commerce.

18 A defendant may be found guilty of an attempt if he
19 intended to provide material support to a designated foreign
00:10:35 20 terrorist organization and voluntarily and intentionally
21 carried out some act which was a substantial step toward
22 that crime.

23 A substantial step must be something more than mere
24 preparation, yet may be less than the last act necessary
00:10:52 25 before the actual commission of these substantive crime.

1 In order for behavior to be punishable as an attempt,
2 it need not be incompatible with innocence, yet it must be
3 necessary to the consummation of the crime and be of such
4 nature that a reasonable observer, viewing it in context,
00:11:13 5 could conclude beyond a reasonable doubt that it was
6 undertaken in accordance with a design to violate the
7 statute.

8 A few relevant definitions.

9 The government must prove beyond a reasonable doubt
00:11:28 10 that the defendant knowingly conspired or attempted to
11 provide material support or resources to a foreign terrorist
12 organization.

13 Here the government has alleged that the material
14 support included personnel, specifically the defendant
00:11:43 15 himself, AA and UCE, those are abbreviations, and others and
16 services to a foreign terrorist organization, namely ISIL,
17 which at all relevant times was designated by the Secretary
18 of State as a foreign terrorist organization.

19 The term "material support or resources" means any
00:12:07 20 property, tangible or intangible, or service, including
21 currency or monetary instruments or financial securities,
22 financial services, lodging, training, expert advice or
23 assistance, safe houses, false documentation or
24 identification, communications equipment, facilities,
00:12:32 25 weapons, lethal substances, explosives, personnel, and

1 transportation, but does not include medicine or religious
2 materials.

3 The term "training" means instruction or teaching
4 designed to impart a specific skill as opposed to general
00:12:51 5 knowledge.

6 The term "expert advice" or "assistance" means advice
7 or assistance derived from scientific, technical, or other
8 specialized knowledge.

9 The term "personnel" means one or more persons which
00:13:08 10 can include the defendant's own person. However, no person
11 can be convicted for a violation of this statute in
12 connection with providing personnel unless that person has
13 knowingly attempted to provide a foreign terrorist
14 organization with one or more individuals who may include
00:13:27 15 the defendant, to work under that terrorist organization's
16 direction or control or to organize, manage, supervise or
17 otherwise direct the operation of that organization.

18 Individuals who act entirely independently of the
19 foreign terrorist organization to advance its goals or
00:13:48 20 objectives are not considered to be working under the
21 foreign terrorist organization's direction and control.

22 The term "foreign terrorist organization" has a
23 particular meaning under this statute. In order for an
24 organization to qualify as a foreign terrorist organization,
00:14:06 25 the organization must have been designated as such by the

1 Secretary of State through a process established by law and
2 have been designated at the time the crime occurred.

3 For a person to act knowingly means that he realized
4 what he was doing and was aware of the nature of his conduct
00:14:24 5 and did not act through ignorance, mistake, or accident.

6 Knowledge of foreign terrorist organization. The
7 government must prove beyond a reasonable doubt that in
8 conspiring to provide or in attempting to provide material
9 support or resources to a designated terrorist organization,
00:14:47 10 the defendant knew that the organization was a designated
11 terrorist organization or that the organization had engaged
12 or was engaging in terrorist activity or terrorism.

13 Specifically, the government must prove that at the
14 time the defendant conspired or attempted to provide the
00:15:06 15 material support or resources in question, he knew that they
16 would be provided to ISIL.

17 Further, you must find beyond a reasonable doubt
18 either that the defendant knew that ISIL had been designated
19 by the United States government as a foreign terrorist
00:15:24 20 organization or that he knew that the organization had
21 engaged in or was engaging in terrorist activity or
22 terrorism.

23 The term "terrorist activity" means any activity which
24 is unlawful under the laws of the place where it is
00:15:40 25 committed or which, if it had been committed in the United

1 States, would be unlawful under the laws of the United
2 States or any state, it and which involves any of the
3 following:

4 The highjacking or sabotage of any conveyance,
00:16:00 5 including aircraft, vessel or vehicle, the seizing and
6 detaining and threatening to kill, injure or continue to
7 detain another individual in order to compel a third person,
8 including a governmental organization, to do or obtain from
9 doing any act as an explicit or implicit condition for the
00:16:21 10 release of the individual seized or detained, a violent act
11 upon an internationally protected person or upon the liberty
12 of such a person, an assassination, the use of any
13 biological agent, chemical agent, or nuclear weapon or
14 device, or explosive, firearm, or other weapons or dangerous
00:16:44 15 device other than for mere personal monetary gain with
16 intent to endanger, directly or indirectly, the safety of
17 one or more individuals, or to cause substantial damage to
18 property or a threat, attempt, or conspiracy to do any of
19 the foregoing.

00:17:03 20 The term "engage in terrorist activity" means in an
21 individual capacity, or as a member of an organization, to
22 commit or to insight to commit under circumstances
23 indicating an intention to cause death or serious bodily
24 injury, a terrorist activity, to prepare or plan a terrorist
00:17:26 25 activity, to gather information on potential targets for

1 terrorist activity, to solicit funds or other things of
2 value for a terrorist activity, or a terrorist organization.

3 The term "terrorism" means premeditated, politically
4 motivated, violence perpetrated against noncombatant targets
00:17:47 5 by sub national groups or clandestine agents.

6 Just a couple very brief definitions.

7 The term "national of the United States" means a
8 citizen of the United States or a person who, though not a
9 citizen of the United States, owes permanent allegiance to
00:18:09 10 the United States.

11 The term "interstate commerce" includes commerce
12 between one state, territory, possession, or the District of
13 Columbia and another state, territory, possession or the
14 District of Columbia.

00:18:24 15 And foreign commercial means commerce with a foreign
16 country.

17 Those are the preliminary instructions that I would
18 like you to consider.

19 At the conclusion of the case, you'll see, more likely
00:18:37 20 than not, all of these instructions along with additional
21 instructions to help you in your deliberations.

22 To set your mind at ease, those instructions will be
23 in writing. There will be a copy for each of you during the
24 course of your deliberations and for your use.

00:18:51 25 At this time, the attorneys will begin with their

1 opening statements in this case.

2 Opening statements are not evidence. They should not
3 be argument. They're designed to provide you with a
4 preview, an overview of what each side believes the evidence
00:19:07 5 will be in this case.

6 Please give both sides your close attention. The
7 opening statements are important. I've already discussed
8 with you the brief timeline or the time constraints that
9 we're going to follow. And I'm confident the attorneys will
00:19:24 10 do so within the timeframe as we've previously discussed.

11 At this time, counsel for the government, you may
12 proceed with your opening statement.

13 MS. MAGNONE: Thank you, Your Honor.

14 THE COURT: And, ladies and gentlemen, if at any
00:19:42 15 time, you can't see here or see any of the demonstratives on the
16 screens, please let us know. Sometimes things do
17 malfunction. We want to be sure that you see and hear
18 everything.

19 MS. MAGNONE: Your Honor, there's a question.

00:19:54 20 A JUROR: My screen is not on.

21 THE COURT: Your screen is not on?

22 Are they all on at this time?

23 A JUROR: All just went off.

24

00:20:08 25 THE COURT: Counsel, do you have -- is it a

1 laptop issue, or is it a more technical issue?

2 Are they on now?

3 A JUROR: No.

4 MR. BRIMER: Give them a second, Your Honor.

00:20:23 5 THE COURT: That is one of our technical people
6 in the back. Just give them a moment to warm up, I suppose,
7 might be the issue.

8 I know we tested them yesterday? Are they working
9 now? No?

00:21:13 10 Do you want to step forward and see if you can remedy
11 the problem?

12 Just one moment.

13 It will take about two minutes for the system to
14 reboot. So just bear with us.

00:22:27 15 (Pause.)

16 THE COURT: While we're waiting, ladies and
17 gentlemen, I'm afraid to say this, but I'll let you know.
18 We will keep tabs on the weather. I don't know that there's
19 any major snow coming our way, but we will keep tabs in the
00:23:26 20 event there's some issue. Hopefully there will not be,
21 either today and/or tomorrow. But we will try to keep tabs.

22 MR. DOUGHTEN: Your Honor, can we approach the
23 sidebar if we have a moment?

24 THE COURT: Yes.

00:24:32 25 (Discussion at sidebar off the record.)

1 THE COURT: It's now rebooting, ladies and
2 gentlemen. Can you see the screens?

3 All right. Just one moment, please. Thank you.

4 All right. Thank you, ladies and gentlemen. If at
00:26:37 5 any time the screens are not activated or you cannot see,
6 let us know, please.

7 Don't ask me. I'm sorry. I'm not sure exactly what's
8 that's all about.

9 As long as it's not looking at me I'm happy.

00:27:00 10 All right. Counsel, are we ready?

11 MS. MAGNONE: Yes, Your Honor.

12 THE COURT: All right. Thank you. Let's get
13 started.

14 MS. MAGNONE: Good morning, ladies and gentlemen.
00:27:16 15 Erick Jamal Hendricks was trying to build a terrorist cell
16 in the United States. He attempted to recruit fighters, and
17 he tried to purchase land to train those fighters.

18 He wrote and disseminated propaganda, and he vetted
19 new recruits. And he did all of this in the hopes of
00:27:35 20 committing violent acts in the United States, in America's
21 own backyard on behalf of the ISIS, also known as the
22 Islamic.

23 Now, you're going to hear a lot about ISIS throughout
24 this trial. I know most, if not all of you, have at least
00:27:54 25 heard of name of this terrorist organization.

1 But we're going to bring in an expert witness that
2 will tell you more about ISIS, about their broad strategic
3 goal to inspire and recruit homegrown terrorists to conduct
4 attacks in the United States.

00:28:10 5 You're also going to hear a lot about social media in
6 this trial, things like Twitter and Facebook. But you're
7 also going to hear about some social media that you might
8 not have heard about, like Wickr and Surespot.

9 Those you will hear are known as encrypted apps,
00:28:29 10 applications that are more difficult to track and trace.

11 And the reason that you're going to hear about social
12 media is because the evidence will show that the defendant
13 was using the Internet, was using social media, to further
14 his crime.

00:28:44 15 So let's talk about those crimes. The judge just told
16 you this is a two-count indictment.

17 Count 1 is conspiracy to provide material support and
18 resources to a designated foreign terrorist organization.
19 In this case ISIS.

00:28:59 20 The government is required to prove an agreement.
21 That is what conspiracy is.

22 Count 2 is attempting to provide material support or
23 resources to a designated foreign terrorist organization.
24 Again, that is ISIS in this case.

00:29:16 25 Attempt is merely an intent to commit the crime. The

1 government is not required to prove, for example, that this
2 defendant was working with ISIS leaders in Syria or Iraq.
3 All that we're required to show is that he intended to
4 provide material support or resources to a designated
00:29:36 5 foreign terrorist organization.

6 So let's talk about what he did. You will hear from
7 not one, not two, not three, but six different witnesses
8 that will come in here and tell you that he tried to recruit
9 them, that he tried to radicalize them, that he tried to
00:29:55 10 indoctrinate them with ISIS propaganda, and that even in a
11 couple of instances, tried to get them to conduct violent
12 acts.

13 So you will hear evidence that some of these witnesses
14 were paid informants. But we would ask that you wait to
00:30:11 15 hear their testimony before you make a determination about
16 their credibility or their reliability because these are not
17 your typical informants. These are not the type of
18 informants you see on TV or movies.

19 All of these interactions, communications, occurred in
00:30:30 20 the spring of 2015. And they culminated on May 3, 2015 in
21 Garland, Texas, where a thwarted terrorist attack took
22 place.

23 Now, this defendant did not plan or participate in
24 this attack, nor is he on trial for this attack. But the
00:30:48 25 evidence will show that he was unequivocally tied to this

1 attack.

2 So let me tell you what happened on May 3, 2015.

3 Elkton Simpson and Nadir Soofi drove from Phoenix,
4 Arizona to Garland, Texas, to the Curtis Cullwell Center.
00:31:09 5 They were dressed in black and shielded in body armor.

6 Inside of the Curtis Cullwell Center were over 200
7 people who were there to attend a Prophet -- Draw the
8 Prophet Muhammad cartoon contest. These people had
9 purchased tickets to view cartoons and caricatures of the
00:31:29 10 Prophet Muhammad which our expert will tell you is offensive
11 to some Muslims.

12 So as the event was coming to a close, Simpson and
13 Soofi drove up to the facility. They stopped their car
14 approximately where that circle is on the slide, and they
00:31:43 15 got out.

16 Now, the evidence will show that between the two of
17 them they had six weapons, assault -- semi-assault weapons.
18 They had rifles. They had pistols, and they had over 15
19 rounds of ammunition and they began to fire.

00:31:59 20 What they didn't count on was the heroic actions of
21 one armed police officer who was able thwart their attack
22 and take down those terrorists. And he will testify in this
23 trial.

24 Ultimately that day, Simpson and Soofi lost their
00:32:19 25 lives on behalf of the ISIS. And this defendant was in

1 contact with Simpson just days before the attack.

2 He was calling him "brother" and "friend" just days
3 after the attack, and the evidence will show that he posted
4 a manifesto online taking credit for this attack on behalf
00:32:43 5 of the his friend just days after the attack.

6 But let me back up for a second. The evidence will
7 show that the defendant was in contact with one of the
8 Garland attackers, Simpson.

9 The evidence will also so that he was in contact with
00:32:59 10 an undercover FBI agent. That undercover FBI agent will
11 testify. And he will tell you that the defendant told him
12 he was in contact with senior leaders from ISIS. That agent
13 will also tell you that the defendant put him in contact
14 with Simpson, the Garland attacker just days before the
00:33:19 15 attacks.

16 And that agent will tell you that the reason for that
17 was that the defendant asked him to vet Simpson to see if he
18 would be a good ISIS recruit for his cell, for his network.

19 And this is a pattern that you will see throughout
00:33:32 20 this trial.

21 The defendant had a system for vetting new recruits,
22 that he used time and time again.

23 So let's talk about some of the patterns that you will
24 see in this trial.

00:33:44 25 What he would do is he would go on Twitter and find

1 people or people would be referred to him. And then he
2 would reach out to those people over direct messaging. You
3 will learn that direct messaging is like Facebook messenger.
4 It's like text messages over the Internet. You can
00:34:02 5 communicate one on one with people.

6 One he was communicating with people on direct
7 messaging, he would tell them to move to an encrypted app,
8 as you I mentioned earlier, Surespot, Wickr. So that their
9 conversation could not be tracked or traced. And that's
00:34:17 10 where he would talk to them about his ISIS affiliations and
11 his plans.

12 He would tell them their user names and he would
13 change those user names frequently so that it would be
14 harder to track.

00:34:28 15 He would change social media platforms. He would jump
16 from one to another again to make it more difficult to track
17 him.

18 Once he trusted one of these people that he met
19 online, he would ask them for names of other potential
00:34:43 20 recruits, other people that he could reach out to to build
21 his network. And then he would vet those people by testing
22 their religious knowledge, their religious backgrounds,
23 etcetera.

24 And oftentimes, he would use his recruits to vet new
00:34:56 25 recruits, which is what occurred on May 2, 2015, when he was

1 asking the FBI undercover agent to vet Simpson, the Garland
2 attacker.

3 So these are patterns that you should pay attention to
4 during this trial.

00:35:13 5 So on May 2, 2015 -- and I know these screen shots are
6 blurry. Let me address that. You will see a lot of screen
7 shots throughout this trial. Some are better than others.
8 These in particular are somewhat blurry, but we will have
9 some that are better for you to view.

00:35:29 10 So on May 2, not only did the defendant put the
11 undercover agent in contact with Simpson, but he actually
12 told him to go to Garland, Texas. So this first text
13 message says -- not text message but message over this
14 communication platform.

00:35:46 15 "I wish someone could go to TX," Texas, and
16 "harass them during the night. A good solid protest. A
17 unique one-man protest."

18 He went on. And you can see the screen shot a little
19 clearer. "See what you and bro Juda can do. At least be
00:36:04 20 heard."

21 The evidence will show that bro Juda did a reference
22 to Elkton Simpson, Juda or Juba was an online moniker that
23 he would using.

24 And so the undercover agent went to Garland on May 3
00:36:16 25 and he went to the vicinity of the Draw the Muhammad cartoon

1 contest. And he will tell you that he was in communication
2 with the defendant throughout the day.

3 Here is example of one of those communications on May
4 3.

00:36:28 5 The defendant says, "Maintain distance and observe.
6 If you see that pig Pam" -- and Pam you will learn is a
7 reference to Pamela Geller, the organizer of the
8 event -- "make your voice," in quotes, "heard against her."

9 He then goes on to ask about security. He asks about
00:36:46 10 things he's casing the event. So he asks, "How is security?
11 How many?"

12 Some other questions he'll go on to ask is "How big is
13 the gathering? How big is the building? Do you see feds
14 there? Do you see snipers? How many media?"

00:36:59 15 Eventually this agent will tell you that he asked him
16 about weapons, and if he had a weapon that he could use.

17 And these communications continued almost up until the
18 moment that Simpson and Soofi got out of their car to
19 conduct their attack. And you will hear about all of this
00:37:15 20 in detail throughout this trial.

21 So where was the defendant when this was happening?
22 Well, the evidence will show that the defendant was in
23 Baltimore, Maryland meeting with another ISIS recruit. You
24 can see in this photo that the defendant is on the left
00:37:30 25 underneath the arrows and the recruit is on the right.

1 He will testify -- and, ladies and gentlemen, he was
2 also working undercover at the time -- but he will testify
3 about this in-person meeting. He will tell you how it came
4 about and what they talked about.

00:37:47 5 He will tell you that the defendant, during their
6 meeting, brought up Pam Geller again, the organizer of the
7 cartoon contest, and that that was the type of scenario that
8 he was looking to attack.

9 This Baltimore witness will also tell you about the
00:38:03 10 fact that the defendant told him that day about a document
11 he wrote. A document he wrote, a manual that he wrote with
12 his wife, one of his wives, called GPS for the Ghuraba in
13 the U.S.

14 Now this document you will have. You will have the
00:38:20 15 full 19 pages by the end of this trial. But the purpose of
16 this document was threefold.

17 First it was supposed to teach you about counteracting
18 law enforcement surveillance. Second, providing
19 technological advice, and third, communicating protocols for
00:38:35 20 those planning to conduct attacks in the United States. It
21 was a manual on how to do these things.

22 It also provided ways to support the mujahideen.
23 Mujahideen is term used for warrior, and he had sectionin
24 entitled "Fight with your hands, fight with your wealth,
00:38:54 25 fight with your tongue, use a cell phone, use a computer."

1 These are all areas -- again, you will be able to see
2 this document.

3 He also offered some final advice. He encouraged
4 brothers and sisters of the faith not to allow themselves to
00:39:09 5 be imprisoned. And here is an excerpt from this document.
6 He told them to stop going to jail willingly. "If your
7 cover is blown or you are waiting for them to convict you,
8 die shaheed." Shaheed is a martyr.

9 He goes on to say, "Stop going to jail, brothers.
00:39:26 10 Boobie trap your homes. Lay in wait for them. Never leave
11 your home without your AK-47 or your M16."

12 So, again, you will have this document.

13 So finally in this face-to-face meeting, the defendant
14 told this Baltimore witness that his goal was to creat a
00:39:47 15 sleeper cell, to be trained and housed in a secure compound,
16 that the purpose of the sleeper cell was to conduct attacks
17 in the United States, future targets included military
18 members whose information had been released by ISIS. And he
19 also again brought up the woman who organized the Draw the
00:40:04 20 Prophet Muhammad contest.

21 So these are all conversations that the defendant had
22 with the witness in person. And you will hear that
23 testimony.

24 After the attack, just a couple days later, the
00:40:17 25 defendant reached out to the same witness and pointed him to

1 a document online. This is the front page of that document
2 that he called the New Era and, we'll have our expert coming
3 in and explain this document to you. But he will tell you
4 that this is an ISIS flyer. And this document took credit
5 for the attack in Garland. And not only did it take credit
6 for the attack in Garland, but it also threatened future
7 attacks in the United States.

8 And the evidence will show that the defendant also
9 authored this document.

10 And we know that because we're going to bring in a
11 witness who posted it online at his direction. She will
12 tell you that he reached out to her, that he told her that
13 he was friends with the shooters, that one of the shooters
14 was a close brother who left a letter that he wanted
15 published after the attack. And that this document was
16 allegedly that letter.

17 So he forwarded the paragraphs of this document to
18 this woman, and she posted them online and she will tell you
19 why she did that.

20 He also asked her to send this document to fighters in
21 Syria, which she also did. And she will tell you why she
22 did that.

23 Now, ladies and gentlemen, you're still going to hear
24 from more recruits than that. You're going to hear from a
25 recruit whose actually in custody. He has been convicted of

1 crimes similar to this one. And he will tell you that the
2 defendant reached out to him, told him he was, quote,
3 "looking for good people," that he had friends and brothers
4 in Texas and Mexico that he was attempting to get to meet
00:41:43 5 face-to-face. And that the reason that he wanted them to
6 meet face-to-face was so that they could train together.

7 This recruit, this witness, will also tell you that he
8 asked the defendant, asked him if he was willing to go to
9 Texas.

00:41:57 10 You'll hear from another woman who was so freaked out
11 by the defendant's radical views that she immediately
12 contacted the FBI. She was concerned. And she was
13 concerned because he told her he had land, that he hoped to
14 obtain more land, and that the purpose of that land was to
00:42:14 15 train ISIS fighters on weapon use, on gun use.

16 And the evidence will show that in 2014, December
17 2014, he actually did try to buy land. You'll see in this
18 picture -- and let me explain this picture to you.

19 So he tried to purchase the land that's in the red
00:42:28 20 outline near the bottom center of the flyer. But this is an
21 overlay of a large piece of land. You can see underneath in
22 the top right-hand corner there's some graphs. The rest is
23 desert, mountain. You will see some green specs as
24 vegetation and trees. So clearly this piece of land is in
00:42:47 25 the middle of nowhere, California.

1 He also tried to purchase this land or talked about
2 purchasing this land in New Mexico. Again, you can see it
3 is in the middle of nowhere. It is quote/unquote "off the
4 grid, secure," could easily go unnoticed. These are the
00:43:01 5 types of land that he was looking for to train his fighters.
6 His cell.

7 So ultimately, ladies and gentlemen, the government is
8 going to have to show that all these communications, all
9 these screen shots, all these documents were actually
00:43:15 10 authored by the defendant. Most of this takes place online.
11 And so there will be quite a bit of testimony regarding
12 technology.

13 The type of technology is oftentimes complicated, but
14 we will do our best to simplify it for you.

00:43:30 15 One thing I can tell you you will hear about is IP
16 addresses. IP addresses go back to locations. And we will
17 show you that the defendant was using online accounts and
18 user names that will tie back to locations like his mother's
19 house and both of his wives' houses to prove that those
00:43:48 20 accounts were actually his.

21 The evidence will show that he also went to great
22 lengths to hide his location, hide his location from law
23 enforcement. And he used a technology called Tor and you
24 will hear more about that in this trial.

00:44:06 25 Ultimately, though, he was tracked down by law

1 enforcement. That's why we're here today. And evidence
2 will show that in the weeks after the Garland attack, the
3 defendant suspected he had been caught. He spotted some
4 surveillance, some FBI surveillance, on or about May 13,
00:44:19 5 2015.

6 His response to that was he immediately ceased his
7 communication with all of his recruits and he shut down his
8 online accounts.

9 Now, you may hear evidence during this trial that
00:44:30 10 there was a time that he was employed by the FBI, but I will
11 tell you that was long before any of these crimes took place
12 and frankly has nothing to do with this case.

13 But, ladies and gentlemen, I will end where I began.

14 Erick Jamal Hendricks was trying to build an ISIS cell
00:44:46 15 in the United States so that he could commit violent acts
16 upon U.S. citizens in America's own backyard.

17 We are confident that once you hear all the testimony
18 and see all the evidence, you will find the defendant
19 guilty.

00:44:59 20 Thank you.

21 THE COURT: Thank you, counsel.

22 You may take down the screen shot, please.

23 At this time, counsel for the defendant, you may begin
24 with your opening statement.

00:45:15 25 MR. DOUGHTEN: I hope we're not having the same

1 problem.

2 THE COURT: I hope not. There we go. It's
3 beginning. Let's see if it's going to be displayed here in
4 a moment.

00:45:27 5 MR. DOUGHTEN: Is it on the screen?

6 THE COURT: Are your screens all on?

7 JURORS: Um-hum.

8 THE COURT: Thank you.

9 MR. DOUGHTEN: Again, I always wonder what jurors
00:45:39 10 believe in a case like that, an opening, from a defense
11 standpoint, what we're worried about and there were a lot of
12 questions from the Judge about the nature of this case
13 because it's very serious to both parties, if it might
14 effect you.

00:45:50 15 We're trying to get to you relax. Part of the voir
16 dire process and opening is when you have an idea what's
17 going on, you can kind of forget about extraneous things and
18 just listen to the evidence which is important, because if
19 you are relaxed, if you are sitting back, then you're going
00:46:09 20 to be able to take things in and process them better.

21 And it's also very important as the judge stressed
22 that you wait until the end of the case before you make up
23 your mind, because if you were to go back right now, you
24 would think, "Wow, the government has some case. What are
00:46:23 25 we doing here?"

1 But let me assure you, that's not the case. And I
2 want to address things.

3 I'm not going to address everything the government
4 says, but there are key points that you have to keep your
00:46:33 5 mind open to that we believe the evidence will show that are
6 important.

7 The most important things is, is the Judge talked a
8 lot about the presumption of innocence. And what that means
9 is things aren't always what they appear to be. You can't
00:46:47 10 go on first blush. You need to go into the background to be
11 able to put the evidence in contact. And this is certainly
12 one of those cases.

13 The bottom line is, in a nutshell, is a lot of what
14 the government said is accurate. And let me give you an
00:47:05 15 example. There was an attack in Garland. There was a
16 person who was having the conversations that the government
17 said he was. But the government won't establish that was
18 Erick Hendricks.

19 This is an interesting case. The pathology of this
00:47:21 20 case is really a lot of Internet action and how it works and
21 who becomes how, and how you can trace who says it and if
22 someone had the capability to use somebody else's computer,
23 IP address, how can that happen.

24 There will be a lot of argument, testimony along those
00:47:38 25 lines. And just right upfront the issue the person on the

1 Internet that the government believed to be Erick Hendricks,
2 we believe they aren't going to be able to establish is
3 Erick Hendricks.

4 So in a nutshell, that's where we're coming from.

00:47:55 5 There are a few things that are factual that we have
6 to address. In fact, Erick did go to Baltimore on May 2.
7 He was there. He did meet with a person who ended up being
8 an informant. You're going to find out was an informant,
9 and he did have these conversations.

00:48:10 10 But you need to understand the background of Erick and
11 the background of this case to be able to properly assess
12 this.

13 To go back, Erick is a Muslim. I think the evidence
14 will show that he had converted as a relatively young man.
00:48:27 15 And at the time this happened, he had been a Muslim for a
16 long time. And he was a very devout Muslim. You
17 heard -- let me give you an example of that.

18 You heard this -- the prosecutor in opening indicate,
19 you know, multiple wives. And let me explain how that is
00:48:46 20 because I think the evidence is going to come out.

21 In the Koran, I guess old school, there's a sect that
22 believes that a Muslim can have multiple wives as long as
23 they're treated equally and they are raised equally. That
24 is not accepted in modern.

00:49:07 25 Erick referred to them as wives, but he wasn't

1 actually married.

2 There was the person that he had been married
3 to -- and you'll hear this name, Tyrinda Hendricks. She'll
4 also be referred to in the evidence as Aaminah, which is two
00:49:22 5 A's. Aaminah. And they had been married. They had been
6 divorced, but they were back together. They didn't formally
7 get married again, but that was his wife.

8 So when you hear about the term "wives," it's really
9 girlfriends in this situation. But under his religious
00:49:39 10 belief, that was the terminology he used. So this isn't a
11 bigamous situation, this isn't a situation where there were
12 civil proceedings for multiple reasons. This was his
13 particular belief and his interpretation of the Koran.

14 We disagree with the government on the importance of
00:50:00 15 the fact that Erick had worked as an informant, as a paid
16 informant for the government. And this becomes very
17 important in understanding this case.

18 He had first been approached by the FBI to become an
19 informant, I believe in Alexandria, Virginia, in 2009, 2010.
00:50:22 20 And, in fact, over a number of years he had been paid -- not
21 a lot of money -- but probably in the range of 20 to
22 \$30,000.

23 And what he was supposed to do for that was that he
24 was going to, if he heard -- he attended a mosque there.
00:50:38 25 The mosque had an imam that was seen by the government as

1 being radical. He is no longer there. But they wanted
2 somebody, which is totally fine, to keep their eyes and ear
3 open and if they heard any radical talk, would you please
4 let us know. Absolutely nothing wrong with that. I think
00:50:58 5 we're all glad that that's going on.

6 The problem was when they asked Erick to start doing
7 it, Erick, there will be evidence, the government thinks he
8 was a radical. There will also be some evidence that he was
9 moderate because the government, I think the evidence will
00:51:15 10 show, that that's why he was approached.

11 And over time he did provide multiple names of
12 informants to the FBI for them to investigate.

13 There was no formal training. You know, this wasn't a
14 matter where they took him in to a school or they had
00:51:31 15 courses or he went to Quantico or somewhere and they said,
16 "Here, Mr. Hendricks, this is how we want to you approach
17 this issue."

18 It was more of an informal, look, if you -- if what
19 you're doing, if you come across anything that we need to
00:51:47 20 know, please let us know. It was more along those lines.
21 So it wasn't an every day thing. He wasn't given a "Here is
22 your duties for today."

23 He was to go on and live his life normally.

24 However, part and parcel of that is in order to
00:52:02 25 attract -- it was Mr. Hendricks belief, that he had to come

1 off as a little bit more of a radical because how else are
2 you going to have somebody approach you if you don't feel
3 that you're approachable and you don't present that you have
4 those particular ideas?

00:52:16 5 I would know say that Erick was a super-successful
6 informant -- handler -- you'll hear the term "handler."
7 What happens, and this is with everybody, including the
8 government's informants, the person who trains and works
9 with somebody who is being a paid informant is called a
00:52:39 10 handler. That's just the expression they use because the
11 person is to report back to them. The handler will reach
12 out to who is working for them and ask, you know, "What's
13 going on? What are you hearing?" And report fairly
14 regularly. And if they do hear anything, they go back to
00:52:55 15 the handler.

16 In about -- Erick first started in the Alexandria,
17 Virginia area. He then moved to South Caroline. You'll
18 hear most of what happens is in Columbia, South Carolina.
19 And, in fact, Erick ended up doing work in South Carolina
00:53:17 20 also. And this was about a four-year heard. Again, not
21 that there was a lot, but he was working for about a
22 four-year period until they terminated his contract in early
23 summer of 2014.

24 Now, what's important about that, at the
00:53:28 25 terminated -- frankly, he hadn't produced a lot. So at that

1 point in time, for whatever reasons, they indicated to him
2 that, you know, we're no longer -- we're not going to pay
3 you anymore. However, keep your eyes and ears open. If you
4 hear anything, keep your eyes and ear open. And that
00:53:46 5 becomes very important for the context of what happens
6 later.

7 Erick interpreted that as it was -- things were kind
8 of open.

9 In the meantime, you'll hear that Erick provided for
00:53:59 10 himself and his wife. He had a phone business. And the
11 phone business was that he fixed those. It wasn't very
12 complicated. It wasn't super sophisticated. But he would
13 do covers on phones, glass, and he would travel a lot to
14 purchase the phones for doing so.

00:54:17 15 And he had been doing this off and on for a number of
16 years.

17 In the fall of 2014, he sold his business. And I
18 believe the evidence will come out that he sold it for
19 \$11,000. And it was a check was written out to him and he
00:54:34 20 cashed it. And he used this money to go west.

21 He and his wife, Tyrinda again referred to as his
22 wife. They weren't actually still married, but they did go
23 west. They did go to the locations that the government said
24 that they did. They did ask to go look at parcels of land.
00:54:56 25 They had never been west before. They had -- neither of one

1 of them were working. They had the money to go on. And
2 they just did, I guess for lack of better term, by
3 serendipity decided to go where they were going to go, what
4 they were going to look, and they did, which is unusual but
00:55:16 5 not illegal, that they did go look at land that was off the
6 grid that weren't anywhere near what you would expect, but
7 they also did the normal thing that you would do in a trip
8 out west.

9 When they returned from that -- his mother lived in
00:55:31 10 Arkansas. So at that point in time, he returned to Arkansas
11 and that's where they lived. Because at this point in time,
12 they still had some cash to live on, but he's going to start
13 his phone business up again. And he did, in fact, take
14 trips in relation to his phone business from that point
00:55:47 15 until -- in Baltimore.

16 A key dinner, which you'll hear evidence of, and I
17 believe the government is going to argue and talk about, is
18 on March 19 where he went to Baltimore, again, with Tyrinda
19 and they went -- they had dinner with somebody who was a
00:56:14 20 friend of his wife and other people they knew.

21 And this person is going to say that at that dinner
22 that Erick was espousing radical information. But it's key,
23 is this person, who was not paid by the government at the
24 time, no evidence of it. They will show there's no phone
00:56:33 25 clips, no conversations of their voice. It's simply her

1 saying that is what Erick and Tyrinda said.

2 The social media platforms, again, we're not going to
3 disagree. There will be lots and lots of screen shots.
4 There will be lots and lots of information as the government
00:56:53 5 said on what platforms were used and why.

6 There's not going to be objections there because we
7 agree that those things were done. It just wasn't Erick.

8 So when he went to Baltimore, here is what else you'll
9 find out from the informant. Part of having a contract with
00:57:14 10 the government is you have to produce. If you don't
11 produce, you don't keep the contract.

12 And so the problem with that is, the evidence is going
13 to show, is that if you want to stay and are paid -- you
14 know, some people are paid a lot of money -- people have to
00:57:34 15 be uncovered. So you have to do what you have to do to be
16 able to provide names.

17 The Garland, Texas matter which I addressed earlier
18 simply wasn't Erick. Simply wasn't Erick.

19 The names that went on, the people who provided the
00:57:54 20 names, the pathway to the names that I think the evidence is
21 going to show, that although circumstantially it appears
22 that it might be because of words that are used and
23 conversation and phrasing, that's far different than
24 establishing that it was him.

00:58:11 25 In fact, there are no devices -- there will be no

1 devices shown to you in this case. They did not obtain any
2 devices. This isn't a matter -- and the expert will explain
3 it. This isn't a matter where this is the device that was
4 used. It just simply doesn't work like that. And, in fact,
00:58:29 5 the devices aren't here for you to view during this trial.

6 Erick did -- the government is also right that
7 following Baltimore, following Garland, Texas, Erick did
8 notice aerial surveillance. And you will see that he
9 panicked at this point in time. There's no question, but he
00:58:49 10 did reach out to his handler. He did reach out and say,
11 "What's going on?" He did reach out and say, "I'm very
12 concerned with what's happening here. You know, after I've
13 done all this stuff for you, what's going on? Why are you
14 doing this?"

00:59:03 15 And he became paranoid that he was being framed for
16 his beliefs and frankly he wasn't sure. And the evidence
17 really doesn't reveal his paranoia, but it does.

18 What Erick then does, to kind of -- after he has
19 contact with the handler, he does want to get in and show,
00:59:27 20 "Look, I wasn't doing anything for nefarious purposes," and
21 so he reports somebody else there. He finds out, because
22 he's out there, there was some indication, and there's some
23 Russians that he thought were doing some nefarious stuff at
24 a flea market a month or so later.

00:59:45 25 And so, in fact, he does contact his handler -- and I

1 think he had a new handler at that point in time. And he
2 says, "Look. Here is somebody else."

3 So he didn't just immediately go underground and hide.
4 That's not what happened. In fact, he was right out in the
00:59:59 5 open.

6 At which point the evidence is going to show the
7 government did not trust him and they took no action. They
8 didn't hear from him, and then, in fact, all contact with
9 the government ended at that point. You'll find that he was
01:00:10 10 arrested almost a year later.

11 One of the key things in this case is going to be the
12 credibility of the informant. And here are some of the
13 things you need to look about which may motivate. One of
14 the informants is a person named Al-Ghazi, and he was the
01:00:29 15 person that the government referred to as being charged with
16 a similar thing and having had contact with Mr. Simpson and
17 Mr. Soofi in Garland, Texas.

18 What you have to pay close attention is he was given
19 quite a plea bargain. He was given quite a plea bargain
01:00:48 20 which he entered and pled guilty to which would give great
21 incentive as to why he would testify consistent with the
22 government.

23 Lynne Miller was provided over a period of time almost
24 \$90,000 for being an informant.

01:00:59 25 Matthew Palmer was at one point paid about \$6,500 a

1 month for a period of time.

2 The person in Baltimore, Al-Ansari, he was being paid
3 at the time.

4 And so what you have to judge, and what you'll be
01:01:16 5 asked and the Court will give instructions, is how much did
6 this affect their credibility? How much did this affect
7 their incentive to come up with things to please the
8 government?

9 As I said, informants must produce or you're no longer
01:01:33 10 going to be an informant, which Mr. Hendricks knows.

11 Most importantly, the evidence connecting Erick to
12 ISIS is simply very weak at best. It's based on the
13 credibility of people who should have no credibility. The
14 evidence is going to show that Erick himself, the person
01:01:55 15 they believed to be Erick, had never had any direct contact
16 with anybody that was associated with ISIS.

17 And, again, our position is it simply wasn't Erick.
18 By even the person that used all these names, there's no
19 direct contacts with ISIS. There might have conversations
01:02:14 20 espousing ISIS ideology, but there's no direct contact.

21 Also, again, I agree with the government. You're
22 going to hear terms, "Hacking," Tor, malware, social media
23 platforms, encryptions, private and public keys. These are
24 all things -- and believe me, as attorneys, when I first
01:02:35 25 looked at this, I had to go to my kids like everybody else

1 to understand how to use Netflix.

2 So when you sit there, it's intimidating. But the
3 people who are going to be called -- and frankly are
4 government witnesses -- are very good at explaining this.

01:02:51 5 And I believe at the time they're testifying, don't be
6 intimidated by those terms. They will be put in ways that
7 you can process and assess these properly per the Court's
8 instructions.

9 One of the things to look for as an example is all
01:03:07 10 these user names. And they're going to run through it. The
11 government will show you it started out with a user name of
12 sham_reason. And the person who was sham_reason kept
13 switching names, which is consistent with somebody trying to
14 hide. And they're going to have these lineage of names that
01:03:26 15 keeps going down by the time the this Baltimore, the person
16 is accepted, and again, our position is that's not Erick.

17 And one of names you will see is itsme17. The
18 government is going to argue that this is Mr. Hendricks.

19 That particular -- the evidence usage, the person with
01:03:43 20 that name, was still active as in less than a month ago.

21 And Mr. Hendricks has not been using it.

22 So these are things that have to be explained and
23 these are also reasons why we believe the government can't
24 show that this lineage of user names is Mr. Hendricks.

01:04:01 25 Finally, after you listen to all the evidence, follow

1 the Court's instructions, the evidence, although clearly
2 there's reason to suspect -- and we're not arguing there
3 isn't -- but when you put it all together and you consider
4 the problems with credibility, the problems with
01:04:22 5 establishing a connection to ISIS, the problem with the user
6 names being connected to Mr. Hendricks, we don't believe the
7 government is going to be able to prove either of the counts
8 beyond a reasonable doubt.

9 Thank you very much.

01:04:35 10 THE COURT: Thank you, Counsel.

11 Ladies and gentlemen, we're going to take our morning
12 break at this time. It's about 10:15. Take about 15
13 minutes, perhaps a few minutes longer. Please leave your
14 notepads on your chairs.

01:04:48 15 Remember all the admonitions I've given you about not
16 discussing the case among yourselves, or forming or
17 expressing any opinions on the matter.

18 Please refrain from texting, messaging, Facebook, all
19 the instructions I've given you in great detail. So please
01:05:05 20 follow those instructions. We'll see you in about 15, 20
21 minutes.

22 Thank you very much, ladies and gentlemen.

23 (Jury out 10:15 a.m.)

24 THE COURT: Just very briefly for the record. I
01:05:47 25 know the defendant's counsel wanted to preserve their

1 objection to the so-called Garland, Texas issue. We'll note
2 their objection to the Court allowing references to be made
3 to that incident in opening statement. That's preserved for
4 the record.

01:06:00 5 Secondly, very quickly, I want to be sure that -- I
6 know yesterday there was some discussion about perhaps some
7 additional discovery to which the defendant was entitled.

8 Has that issue been cleared up, counsel for the
9 defendant?

01:06:13 10 MR. DOUGHTEN: It has, Your Honor. We met with
11 the government yesterday and they provided us everything we
12 had requested. So we're fine.

13 THE COURT: All right.

14 Anything else before we break and begin with testimony
01:06:23 15 near about 15, 20 minutes?

16 Any other issues?

17 MR. SHEPHERD: Not from the United States, Your
18 Honor.

19 MR. DOUGHTEN: Nothing further, Your Honor.

01:06:28 20 THE COURT: The other thing I would just call to
21 your attention quickly, is the press of business will be if
22 you could just leave a bit of space at the table. I have a
23 sentencing hearing at noon. It shouldn't take -- well, we
24 will see how long it takes, but I do have a sentencing
01:06:43 25 hearing which will start at noon. So we'll break about five

1 to the lunch -- noon for our lunch hour and I will complete
2 that proceeding and then we will come back.

3 Thank you very much for your courtesy. We'll see you
4 in about 15, 20 minutes.

01:06:58 5 (Recess taken, 10:15 until 10:35 a.m.)

6 (Outside the presence of the jury.)

7 THE COURT: Let's just take one moment. The
8 court reporters are printing off the portion of the
9 transcript that I indicated we would provide both sides. So
01:26:47 10 just take one moment. I'll ask that be done and then we'll
11 address a couple other issues before the jury comes into the
12 courtroom.

13 (Pause.)

14 THE COURT: All right. Counsel, a couple of
01:27:52 15 issues. I know there's several stipulations the government
16 would like me to proceed before the testimony begins. I
17 will do that. The stipulations regarding business records,
18 also stipulations regarding the designated terrorist
19 organization. Those are the two you would like me to read,
01:28:11 20 counsel for the government?

21 MR. SHEPHERD: Yes, Your Honor. I believe that
22 will assist in the presentation of evidence if we've already
23 read the business record stipulation, Your Honor, and that
24 will make it easier to present evidence throughout the
01:28:22 25 trial.

1 THE COURT: Is it necessary for me to read the
2 entirety of the list of exhibits as you've spelled them out
3 here?

4 MR. SHEPHERD: Your Honor, I don't believe so.
01:28:31 5 And I think one option would be, Your Honor, if you
6 just -- you could -- I guess one option would be just to
7 read the portion of the stipulation that doesn't name all
8 the exhibits and just indicate that the government and
9 parties have stipulated regarding a number of exhibits
01:28:49 10 without reading all of them. I think we would all be
11 satisfied with that.

12 MR. DOUGHTEN: That's correct, Your Honor.

13 THE COURT: All right. That's number one.

14 The second stipulation would be the stipulation
01:29:00 15 regarding designated terrorist organization. You would like
16 me to read that as well?

17 MR. SHEPHERD: Yes, Your Honor, so that way the
18 jury knows from the beginning that that's not an issue.

19 THE COURT: All right.

01:29:09 20 Counsel, you have no objection on behalf of the
21 defendant?

22 MR. DOUGHTEN: Yeah. No objection.

23 THE COURT: The additional issue, it's procedural
24 in nature, with regard to the publication of exhibits, if
01:29:24 25 there are no objections to exhibits, meaning if the parties

1 have agreed and there has been a viewing previously of the
2 various exhibits, and if there is not going to be an
3 objection, then you can go ahead and publish them without
4 asking the Court's permission.

01:29:40 5 If there are exhibits, however, that there's going to
6 be some dispute about the admissibility, please, we'll need
7 to, before, before we're published to the jury, you'll need
8 to call that to my attention so we can address that.

9 So I guess in a broad sense, the way we'll proceed
01:29:58 10 procedurally is if there were no objections, you may go
11 ahead and publish the exhibit, display it to the jury on the
12 screens.

13 Any exhibits, however, that might be in dispute or
14 there might be some objection, you'll have to ask my
01:30:09 15 permission before you publish it to the jury so that the
16 other side can be heard.

17 Any questions about that on behalf of the government?

18 MR. SHEPHERD: No, Your Honor.

19 MR. DOUGHTEN: Your Honor, just so the record is
01:30:18 20 clear, we have been provided exhibit books, and we have gone
21 over them with the government.

22 At this point in time, the only exhibits that we're
23 objecting to are the Garland, Texas exhibits, as the Court's
24 aware.

01:30:31 25 But the rest of them -- we'll look over the night

1 before, if there is something we see that we missed, we'll
2 bring it to the Court's attention.

3 THE COURT: Thank you.

4 The so-called Garland, Texas exhibits, when will they
01:30:42 5 be presented, just roughly, if you know? Next week
6 sometime?

7 MR. SHEPHERD: Yes Your Honor. Except there
8 would be testimony about the undercover's communications
9 regarding Garland tomorrow.

01:30:56 10 THE COURT: Okay. I'm just concerned
11 about -- not just, but the major concern for me is the
12 pictures, the pictures that might be viewed as inflammatory
13 of the scene after the two individuals were shot and killed,
14 those kind of exhibits are things we're going to have to
01:31:12 15 discuss that I'll have to rule upon before they're displayed
16 to the jury.

17 MR. SHEPHERD: Your Honor, that would likely be
18 no earlier than Monday.

19 THE COURT: All right. We'll have time to
01:31:21 20 address it.

21 MR. SHEPHERD: Yes, Your Honor.

22 THE COURT: All right. Then we'll have the
23 jurors brought forward and we can begin.

24 Thank you very much.

01:31:27 25 Ms. Kestner.

1 (Jury in, 10:40 a.m.)

2 THE COURT: Ladies and gentlemen of the jury, at
3 this time, as I referenced in my opening remarks or
4 instructions, there are certain things the parties may agree
01:32:52 5 to. Those agreements are referred to as stipulations. And
6 there are stipulations that I would like to read to you now
7 before the testimony of the witnesses begin.

8 There's a stipulation regarding business records, it
9 will be clearer to you when you -- you will actually have
01:33:09 10 the written stipulation with you in the jury room. It may
11 be clearer, but the attorneys have agreed, the United States
12 by and through its attorneys, as well as Mr. Hendricks, by
13 and through his attorneys, have stipulated and agreed to a
14 series of exhibits.

01:33:24 15 I won't read them all to you now. There's probably 20
16 or 30 or more.

17 Most of them are records, records for Twitter,
18 Facebook records, Google records, Twitter records, Surespot
19 records, the parties have agreed that these documents,
01:33:41 20 again, will be presented to you. That they are business
21 records, in essence, business records of which they were
22 made and kept at a time, the time by and from information
23 transmitted by someone with knowledge. They were kept in
24 the regularly conducted activity of a business organization,
01:34:00 25 occupation or calling, making the records the regular

1 practice of that activity. And they're referred to for
2 technical reasons under the rules of evidence as business
3 records, which you will have an opportunity to see and view
4 here during the course of the proceedings.

01:34:17 5 The parties have agreed to that.

6 Secondly, there's a stipulation regarding designated
7 terrorist organization. And the parties, once again,
8 through their attorneys, the United States through the
9 attorneys representing the government, and the attorneys
01:34:32 10 representing Mr. Hendricks, hereby stipulate and agree to
11 the following:

12 At all times relevant to the indictment, the Islamic
13 State of Iraq and the Levant, also known as the Islamic
14 State of Iraq and Syria, ISIS, al-Qaeda in Iraq and the
01:34:51 15 Islamic State was a designated foreign terrorist
16 organization under Section 219 of the Immigration and
17 Nationality Act and was a specially designated global
18 terrorist entity under Section 1B of the Executive Order
19 13224.

01:35:10 20 So the parties are agreeing, again, that the various
21 entities ascribed were, in fact, designated terrorist
22 organizations.

23 That essentially is what that stipulation means.

24 And, again, you'll have a copy of these stipulations
01:35:23 25 with you in the jury room, I believe.

1 So with that, counsel for the government, would you
2 call your first witness, please.

3 MR. SHEPHERD: Yes, Your Honor, the United States
4 calls Special Agent Ryan Presley.

01:35:34 5 THE COURT: Ladies and gentlemen, one other
6 matter.

7 Special Agent, you can approach.

8 One other matter I would just call to your attention,
9 because of the awkward position of the podium, the podium
01:35:43 10 itself, there are electronics underneath it that cannot be
11 moved, and so it may block the vision of some of the
12 participants.

13 So some of the participants, may, if you see them
14 moving their chairs, moving around a bit, it's so they can
01:35:56 15 see and observe the witness which is important for the
16 participants as it is of course, for you us a jurors.

17 All right. Thank you.

18 RYAN A PRESLEY,
19 of lawful age, a witness called by the United States,
01:36:04 20 being first duly placed under oath, was examined
21 and testified as follows:

22 THE COURT: Please be seated. Adjust the
23 microphone so your testimony may be heard.

24 Just a couple of brief instructions. Please wait
01:36:21 25 until the attorneys complete their questions before you

1 begin to respond. It's difficult for the court reporters
2 and listeners when two individuals are speaking at the same
3 time.

4 Of course, if there is an objection, do not answer the
01:36:33 5 question until I rule on the objection. And we would
6 appreciate your cooperation in that regard.

7 Counsel, you may proceed.

8 MR. SHEPHERD: Thank you, Your Honor.

9 DIRECT EXAMINATION OF RYAN A. PRESLEY

01:36:43 10 BY MR. SHEPHERD:

11 Q. Would you please state your full name for the record?

12 A. Ryan A. Presley.

13 Q. And would you spell your last name, please?

14 A. P-R-E-S-L-E-Y.

01:36:51 15 Q. And where do you work, sir?

16 A. I work for the FBI in the Cleveland field office.

17 Q. And are you a special agent?

18 A. I am.

19 Q. Special Agent Presley, what's your current job?

01:37:02 20 A. I'm the acting supervisory special agent for the
21 Cleveland joint terrorism task force.

22 Q. And how long have you done that?

23 A. Since November of 2017.

24 Q. Prior to become being the acting supervisor of the
01:37:16 25 joint terrorism task force, what were you doing for the FBI?

1 A. I was a supervisory special agent in the FBI's
2 counterterrorism division located in Washington, D.C.

3 Q. And how long were you in D.C.?

4 A. For a period of 18 months.

01:37:30 5 Q. Prior to going to Washington, where were you assigned?

6 A. I was a special agent assigned to the Cleveland field
7 office joint terrorism task force.

8 Q. And how long were you assigned in Cleveland?

9 A. Since 2009.

01:37:43 10 Q. Do you have any other prior law enforcement
11 experience?

12 A. I do not.

13 Q. As an FBI agent, have you received any particular
14 training, especially as it relates to counterterrorism?

01:37:55 15 A. Yes.

16 Q. Can you please brief describe that?

17 A. I, like all FBI agents, received specialized
18 counterterrorism training while at the FBI academy. Since
19 graduating from the academy, I received both online and
01:38:09 20 in-person training facilitated by the FBI and other
21 government agencies.

22 Q. So approximately how many years have you been involved
23 in investigating counterterrorism offenses?

24 A. Nine years.

01:38:19 25 Q. Special Agent Presley, are you one of the

1 investigators or agents who was involved in the Erick
2 Hendricks investigation?

3 A. Yes.

4 Q. How did you become involved in that investigation?

01:38:34 5 A. I was the lead. I was the lead case agent for the
6 Cleveland field office's investigation of Amir Al-Ghazi.

7 Q. And when you refer to Amir Al-Ghazi, that's somebody
8 different from Erick Hendricks?

9 A. Yes.

01:38:47 10 Q. So how was it that your investigation of Amir Al-Ghazi
11 led to Erick Hendricks?

12 A. During an interview with Mr. Al-Ghazi post-arrest, I
13 asked him if he had been in contact with any other
14 individuals who may be involved in terrorist activities.

01:39:07 15 And specifically I referenced, for example, the
16 Garland, Texas shooting incident.

17 Q. And what was the response that led you to further
18 investigation?

19 A. He said, yes, that he had been in contact with an
01:39:20 20 individual who went by the moniker of Abu Harb.

21 Q. And were you provided with any social media accounts
22 that were used?

23 A. Yes.

24 Q. What was the social media account that you were
01:39:32 25 provided?

1 A. He was first contacted by this individual via Twitter
2 direct messaging conversation. And he provided me with the
3 profile of @sham_reason.

01:39:51 4 Q. Let's back up Special Agent Presley. So who was Amir
5 Al-Ghazi?

6 A. Amir Al-Ghazi was a Cleveland based subject. We
7 opened an investigation on him in 2012 after we discovered
8 that he was the owner of a Facebook profile that just
9 espoused general jihad rhetoric and appeared to show support
01:40:08 10 for various terrorist organizations such as al-Qaeda.

11 Q. Did the investigation eventually involve his possible
12 support for ISIS?

13 A. Yes. Approximately in June of 2014, Mr. Al-Ghazi
14 transitioned to support two ISIL or ISIS. He made specific
01:40:28 15 statements indicating that he had pledged his allegiance to
16 ISIS. He made statements indicating his intent to incite
17 violence on behalf of the ISIS in the United States, and he
18 took steps to make propaganda and recruiting videos for
19 ISIS.

01:40:44 20 Q. And was that the basis for your session then into
21 early 2015 into Mr. Al-Ghazi?

22 A. Yes.

23 Q. At some point, was Mr. Al-Ghazi arrested?

24 A. Yes, he was arrested on June 19, 2015.

01:40:56 25 Q. What were the immediate circumstances of his arrest?

1 A. The immediate circumstances were that he had produced
2 multiple audio files that were to be used in propaganda
3 videos he thought would be leveraged by ISIS. And he also
4 purchased an AK-47 and several rounds of ammunition from an
01:41:16 5 undercover FBI employee.

6 Q. Earlier you described an interview with Mr. Al-Ghazi.
7 Did that take place immediately after this arrest you just
8 described?

9 A. Yes.

01:41:23 10 Q. After this interview with Mr. Al-Ghazi where he
11 identified the social media account you mentioned earlier,
12 what were some of the investigative steps that you took next
13 to try to further the investigation?

14 A. To corroborate his testimony, we served a search
01:41:41 15 warrant on his Twitter account in July of 2015.

16 Q. Now, at the same time, was there also, to your
17 knowledge, an ongoing investigation related to Erick
18 Hendricks?

19 A. Yes.

01:41:52 20 Q. And did you become familiar with that investigation?

21 A. Generally, yes.

22 Q. And if you could just briefly describe at that time
23 the status of the investigation, when you started following
24 up on the leads from your interview with Mr. Al-Ghazi?

01:42:06 25 A. Generally speaking, the investigation into Erick

1 Hendricks was based upon the FBI's discovery that an unknown
2 individual at that time was communicating with individuals
3 online, and he was making attempts to recruit and organize
4 these individuals for purposes of forming a terrorist cell
01:42:25 5 in the United States.

6 Q. And when Mr. Al-Ghazi was being investigated -- where
7 was Mr. Al-Ghazi physically located?

8 A. He was located in Sheffield Lake, Ohio, which is a
9 suburb of Cleveland.

01:42:37 10 Q. Now, you mentioned also that you had taken steps to
11 corroborate Mr. Al-Ghazi's information, including a search
12 warrant; is that correct?

13 A. Correct.

14 Q. What did he get a search warrant for?

01:42:48 15 A. We got a search warrant for Mr. Al-Ghazi's Twitter
16 account, which contained the name of Amir Al-Ghazi and the
17 handle of @amiralghazi76.

18 Q. And was that search warrant served on Twitter?

19 A. Yes.

01:43:03 20 Q. And did you receive results back?

21 A. Yes.

22 MR. SHEPHERD: I would like to pull up on the
23 screen to show you Government's Exhibit 25.

24 BY MR. SHEPHERD:

01:43:17 25 Q. Special Agent Presley, on the screen before you is

1 Government's Exhibit 25.

2 Have you previously reviewed Government's Exhibit?

3 A. Yes.

4 Q. It consists of a total of 184 pages, but page 1 is
01:43:30 5 displayed?

6 A. Yes.

7 Q. What is Government's Exhibit 25 that you previously
8 reviewed?

9 A. This is the general subscriber information associated
01:43:37 10 with account amiralghazi76.

11 Q. And the whole 184-page exhibit, what is that?

12 A. It contains direct messaging conversations, a list of
13 his followers, a list of individuals whom he followed as
14 well as content contain on his page.

01:43:53 15 Q. I would like to on this exhibit explain a couple thing
16 to the jury.

17 If we could highlight or enlarge the account section
18 in the middle, please.

19 Special Agent Presley, in this account information
01:44:15 20 there's something called an account ID?

21 Do you see that?

22 A. Yes.

23 Q. Can you please read the account ID this account?

24 A. 2308199430.

01:44:25 25 Q. And for this account, what does -- what does that

1 number mean? What is that?

2 A. That is a unique numerical ID tied to Al-Ghazi's
3 Twitter account.

4 Q. And in your experience, have you obtained documents or
01:44:43 5 records from Twitter in the past?

6 A. Yes.

7 Q. Is that something that frequently you have done in
8 your nine years of terrorism investigations?

9 A. Yes.

01:44:51 10 Q. So have you seen this number, this type of account ID
11 number consistently in your experience?

12 A. Yes.

13 Q. And where does it indicate what the screen name would
14 be for this account?

01:45:05 15 A. Up at the top you'll see it says,
16 "amiralghazi76-ccount."

17 And then also down in the left-hand side, you'll see
18 "screen_name:" And there, again, you'll see
19 "amiralghazi76."

01:45:23 20 Q. So when somebody is on Twitter and the records you
21 receive, do they show a record of what's called a follower
22 someone who is being followed?

23 A. Yes.

24 Q. Could you briefly explain that concept for the jury?

01:45:38 25 A. Sure.

1 When a Twitter user follows or is followed by another
2 Twitter user, this enables them to see tweets on each
3 other's pages, allows them to receive updates in term of
4 content on those pages, and probably most importantly, it
01:45:56 5 permits them to conduct direct or private messaging with one
6 another.

7 Q. Now I would like to move to page 8 of exhibit 25.

8 And if we could enlarge, sort of the top portion of
9 the list of names along with the title, please.

01:46:16 10 So on page 8, what does page 8 of exhibit 25, what is
11 that showing?

12 A. It is a list of Amir Al-Ghazi's Twitter followers.

13 Q. And what is the third one from the top?

14 A. sham_reason.

01:46:33 15 Q. Does -- is this one of the facts that you were looking
16 for in response to the information you were provided by Mr.
17 Al-Ghazi?

18 A. Yes, it corroborated details from his interview.

19 Q. Okay. Can we now move to page 33, please.

01:46:48 20 And, again, I would like to highlight sort of
21 the -- enlarge the top half of this screen, please?

22 And what does page 33 of Exhibit 25 show?

23 A. This shows the list of Twitter users that Amir
24 Al-Ghazi was following.

01:47:11 25 Q. And in this list, did you identify, again, that

1 sham_reason account?

2 A. Yes.

3 Q. And can you see it on the screen?

4 A. Yes.

01:47:22 5 Q. Can you please, with your finger, try to underline it?

6 A. (Complying.)

7 Q. So is that the account that you just underlined in
8 red?

9 A. Yes.

01:47:35 10 Q. Now, based on the fact -- earlier you mentioned based
11 on the fact that there was following -- they were following
12 each other. There's the ability to do directness messages?

13 A. That is correct.

14 Q. What do you mean by that?

01:47:44 15 A. That means that they're able to communicate in text
16 form with one another privately without other Twitter users
17 seeing the contents of their conversation.

18 Q. Now, within Exhibit 25, were you able to identify a
19 conversation between amiralghazi76 and sham_reason?

01:48:05 20 A. Yes.

21 Q. And if we could, please, pull up Exhibit 25 A, please.

22 While we're pulling up that exhibit, in review of
23 Exhibit 25, were you able to isolate that conversation
24 between amiralghazi76 and sham_reason?

01:48:42 25 A. Yes.

1 Q. And have you reviewed Exhibit 25A?

2 A. Yes.

3 Q. What does Exhibit 25A show?

4 A. This shows a direct message communication between
01:48:53 5 amiralghazi76 and sham_reason.

6 Q. And if we could enlarge the middle of the page,
7 please.

8 In the middle of the page where I'm going to circle
9 with my finger, there's like three rows of stars on this
01:49:16 10 record. What does that indicate?

11 A. That there were multiple conversations between these
12 two users.

13 Q. So the -- I want to start with this -- at the very
14 bottom there's texts there.

01:49:32 15 Could you read the text, please?

16 A. Underneath the area you have circled.

17 Q. Yeah, I'll identify the one I'm looking for.

18 I just, with my finger, indicated the text message at
19 the bottom of the screen?

01:49:49 20 A. "Walaikum sallam and no thank you for the
21 opportunity."

22 Q. And who is listed as the sender ID?

23 A. That would be Amir Al-Ghazi.

24 Q. And how do you that?

01:50:01 25 A. By looking at the sender_id. That is the unique

1 numerical ID that we previously discussed.

2 Q. And there's something called recipient ID. What does
3 that show?

4 A. That shows the receiver of the message.

01:50:17 5 Q. And does that also provide one of those unique
6 identification numbers?

7 A. Yes.

8 Q. If we could go back to the full exhibit, please.

9 So taking a look at Exhibit 25A, is this the complete
01:50:31 10 conversation that you identified between at amiralghazi76
11 and at sham_reason?

12 A. Yes.

13 Q. Just taking a look at this, would it be fair to say
14 this is sort of confusing to read?

01:50:46 15 A. Yes.

16 Q. Are you aware of whether a separate transcript has
17 been made of this conversation?

18 A. Yes.

19 Q. And have you reviewed that document?

01:50:53 20 A. Yes.

21 Q. And does it appear to you to be an accurate transcript
22 of the communications in Exhibit 25 A?

23 A. Yes.

24 Q. And before we leave 25A, on this exhibit, are the
01:51:07 25 conversations going in chronological order from the bottom

1 of the page is earlier and the top is higher?

2 A. That is correct.

3 Q. So if we could please pull up Exhibit 25B, please.

4 So what is Exhibit 25 B?

01:51:34 5 A. This is the previous conversation listed in Exhibit
6 25A. And it's been put in a chart form for ease of review.

7 Q. And is it also in chronological order from the
8 earliest first?

9 A. Yes.

01:51:50 10 Q. In addition to obtaining records or reviewing records
11 related to amiralghazi76, were any records also obtained
12 from -- related to the sham_reason, sham_reason Twitter
13 account?

14 A. Yes.

01:52:07 15 Q. I would like to pull up Government Exhibit 140,
16 please?

17 First, have you reviewed Government Exhibit 140 prior
18 to your testimony today?

19 A. Yes.

01:52:29 20 Q. And what is Government Exhibit 140?

21 A. This is the general subscriber information for Twitter
22 account ID 2918880924.

23 Q. And is that the same account ID that was on
24 Government's Exhibit 25A in those conversations?

01:52:54 25 A. Yes.

1 Q. It also lists an Email account associated with this
2 account?

3 A. Yep.

4 Q. And what is that account?

01:53:00 5 A. sham_reason@gmail.com.

6 Q. And what is the screen name that's listed?

7 A. sham_reason.

8 Q. Now often, I've been using the terminology referring
9 to an account with an "at" something before reading the
01:53:15 10 screen name.

11 Are you familiar with what that is?

12 A. Yes.

13 Q. Can you please explain that?

14 A. It just refers that they're located at that particular
01:53:26 15 account.

16 Q. I would like to move to page 3 of Exhibit 140.

17 Just generally, what does -- what does page 3 of
18 Exhibit 140 start to show?

19 A. It appears to be an IP history associated with account
01:53:51 20 ID 2918880924.

21 Q. In your experience, have you dealt with records
22 related to IP's?

23 A. Yes.

24 Q. And first, what does IP stand for?

01:54:06 25 A. Internet protocol address.

1 Q. Now, the questions I'm asking are just based on you're
2 personal experience using these.

3 In your experience, what does that tell you?

4 A. Well, I'm not an expert. Very simply what it shows is
01:54:20 5 you when a particular device or computer connects to an
6 Internet service provider, it will generate an IP or
7 Internet protocol address.

8 Q. If we could enlarge like the upper third of this
9 exhibit, please.

01:54:36 10 Just taking, for example, the first one where it says
11 "last_login_ip," there's a number listed.

12 A. Yes.

13 Q. Is that the number you were referring to as an IP?

14 A. Yes.

01:54:56 15 Q. Now, as an investigator, what are you able to do with
16 that number?

17 A. If you have a user's IP address, you're then able to
18 connect that to a particular Internet service provider.

19 If you serve legal process to that Internet service
01:55:12 20 provider and provide them with that IP address, they're then
21 able to identify the user behind that IP address and will
22 provide you with general subscriber information.

23 So sometimes that could include name, address, Email
24 addresses, physical addresses.

01:55:28 25 Q. Now, are you always able to get a location from an IP

1 address?

2 A. Not always.

3 Q. And assuming you are able to get a -- get further
4 information, can that pinpoint the exact user at all times?

01:55:43 5 A. Not always, but normally so.

6 Q. And what fact can it most do if you're able to follow
7 that chain with the IP address?

8 A. You are able to determine the subscriber of record for
9 the particular Internet service and obtain their physical
01:56:00 10 address.

11 Q. In order to -- since it's just a number here, how do
12 you typically go about knowing which service provider to
13 obtain further records from?

14 A. There are a variety of commercially available IP
01:56:15 15 address finders. You can simply take that IP address, plug
16 it into a text box on any one of these websites, and it will
17 generate for you who the Internet service provider is.

18 Q. If we could please go back to the full exhibit.

19 And about -- if we could enlarge, sort of right about
01:56:41 20 there. Do a box, a little bit further down, please. That
21 will work.

22 So taking a look at the entry that -- there's three
23 entries currently displayed on the screen. I would like you
24 to take a look at the third entry at the bottom that's 2015,
01:57:02 25 March 1 at 14:22 and 19 seconds. Do you see that?

1 A. Yes.

2 Q. First of all, for those who might not have been in the
3 military, what does the 14:22 stand for?

4 A. 2:22.

01:57:17 5 Q. And do you see an IP address down there? What's the
6 IP address?

7 A. 98.25.38.236.

8 Q. Is this an IP address that the FBI in its
9 investigation of Mr. Hendricks obtain further records on?

01:57:32 10 A. Yes.

11 Q. And during the process of doing that, was that
12 commercial database process used to determine the service
13 provider?

14 A. Yes.

01:57:43 15 Q. And then what was the service provider in this case
16 for that 97.25.38.236?

17 A. Time Warner.

18 Q. And if we could also look at -- if we could go back to
19 the bottom of page 3, and just enlarge the very bottom of
01:58:05 20 page 3.

21 Did that same IP address appear again?

22 A. Yes.

23 Q. At what time?

24 A. At 17:45:19.

01:58:17 25 Q. And what date?

1 A. On February 28, 2015.

2 Q. And if we could go back to -- now move to page 4,
3 please.

4 And if we could highlight sort of right in the middle,
01:58:38 5 please.

6 And enlarge that.

7 And do you see that same IP address again?

8 A. Yes.

9 Q. And what was the date of that login?

01:58:48 10 A. February 27, 2015 at 18:04.

11 Q. Now, you said this service provider was Time Warner.
12 Were records obtained from Time Warner in this
13 investigation?

14 A. A grand jury subpoena was issued.

01:59:02 15 Q. And as a result of that, were records related to this
16 IP address obtained?

17 A. Yes.

18 Q. Can we please bring up Exhibit 156, please?

19 If we could go to page 2 of this exhibit.

01:59:20 20 If we could please enlarge the subscriber record at
21 the top.

22 First, is Exhibit 156 the records you obtained from
23 Time Warner?

24 A. Yep.

01:59:38 25 Q. And have you previously reviewed them prior to today?

1 A. Yes.

2 Q. What does it -- who does it say is the subscriber in
3 this document?

4 A. Andrea Hansen.

01:59:51 5 Q. And does it identify the IP address anywhere in this
6 document?

7 A. Yes.

8 Q. And what does it say?

9 A. 98.25.38.236.

02:00:06 10 Q. And does it indicate how long that IP address has been
11 associated with this account?

12 A. It indicates that it's been held since January 18,
13 2015.

14 Q. Are you familiar with who Andrea Hansen is?

02:00:18 15 A. Yes.

16 Q. Who is Andrea Hansen?

17 A. Based upon my review of jail calls involving Mr.
18 Hendricks, she is one of his two Islamic wives.

19 Q. And when you indicate two Islamic wives, what do you
02:00:33 20 mean?

21 A. Again, based upon my review of jail calls, I also know
22 him to refer to an individual by the name of Tyrinda
23 Hendricks as his wife.

24 Q. If we could please go back to Government's Exhibit

02:00:49 25 140, please. And, again, what was Government's Exhibit 140?

1 A. This is the initial subscriber information for Twitter
2 account sham_reason.

3 Q. And if we could again go forward to page 3, in the
4 middle of page 3, please.

02:01:09 5 I would like to draw your attention to the third entry
6 down in the middle of page 3.

7 What is the IP address indicated there?

8 A. 98.101.201.226.

9 Q. And what is the date and time?

02:01:35 10 A. March 1, 2015 at 14:13.

11 Q. Okay.

12 And could we please go back to just on the bottom of
13 page 3, the final three or four entries, please.

14 At the bottom of page 3, do you see that same IP
02:01:54 15 address again?

16 A. Yes.

17 Q. And what is the IP address listed?

18 A. 98.101.201.226, dated February 28, 2015, at 21:58.

19 Q. And right above that, do you see another entry with
02:02:13 20 that same address?

21 A. Yes.

22 Q. Okay.

23 Can we please go to page 4, the top third of the page?

24 Do you see any additional -- do you see any additional
02:02:31 25 entries with that same IP address?

1 A. Yes. The first and third entry, both dated February
2 27, 2015 at 23:39 and 21:55 respectively.

3 Q. Was that commercial database lookup done that you
4 described earlier for this IP address as well?

02:02:52 5 A. Yes.

6 Q. And what did you find about the service provider?

7 A. It also was Time Warner.

8 Q. Did you also learn any information about the kind of
9 IP address?

02:03:01 10 A. Yes.

11 Q. And what was that?

12 A. This particular address was dynamic in nature as
13 opposed to static.

14 Q. And what's the difference between the two?

02:03:16 15 A. So a static IP address never changes. And dynamic
16 address can change over a prescribed period of time per the
17 Internet service provider.

18 Q. And had you also done that with the prior one that
19 belonged to Andrea Hansen?

02:03:34 20 A. Yes.

21 Q. And are you sure which one was static and which one
22 was dynamic?

23 A. Yes.

24 Q. Can we please move to exhibit -- first, before we move
02:03:47 25 to Exhibit 157, did you also obtain records from Time Warner

1 for that IP address?

2 A. Yes.

3 Q. And what was the IP address -- or take that back for a
4 second.

02:04:02 5 Could we please pull up Exhibit 157?

6 Was this the response to the legal process to Time
7 Warner?

8 A. Yes.

9 Q. Can we please go to Exhibit 2, please -- or page 2 of
02:04:27 10 Exhibit 157.

11 And without enlarging anything, generally what does
12 this show?

13 A. Generally this shows target information or detailed
14 information for IP address 98.101.201.226. Specifically it
02:04:49 15 indicates that the subscriber was an extended stay hotel
16 location in Colombia, South Carolina.

17 Q. And is there a type of account listed?

18 A. It is a commercial account.

19 Q. And an activation date?

02:05:01 20 A. There's an activation date of December 9, 2010.

21 Q. Let me ask you again, Special Agent Presley, taking a
22 look at this now, earlier you discussed static versus
23 dynamic.

24 Do you recall whether this was the static one or the
02:05:17 25 dynamic one?

1 THE COURT: Do you want to blow it up for him?

2 MR. SHEPHERD: Sorry. Can we blow up the top
3 entry.

4 THE WITNESS: I believe this one was the dynamic
5 address.

02:05:47

6 Feel free to correct me if I'm wrong.

7 THE COURT: Special Agent Presley, are there any
8 documents I can provide to you that might help confirm by
9 was static and which was dynamic that you previously
10 reviewed prior to your testimony?

02:06:11

11 THE WITNESS: Yes, there would be some
12 information contained in the original return.

13 MR. SHEPHERD: Your Honor, may I approach the
14 witness.

02:06:20

15 THE COURT: You may.

16 THE WITNESS: Based on my review of this
17 information, I got the IP addresses mixed. So this would
18 have been a static IP.

19 THE COURT: Just one moment, counsel.

02:06:47

20 Counsel, I apologize for the interruption. Is your
21 computers operational in terms of the realtime? It is?

22 MR. HARTMAN: Ours is not.

23 THE COURT: Let's take a moment, please, just a
24 moment.

02:07:01

25 (Pause.)

1 THE COURT: I'm sorry. We can do it at the lunch
2 hour. We'll have to do it the old-fashioned way. I just
3 wanted to be sure we were all not getting it rather than
4 some of us having it available and not all of us.

02:10:03 5 Let's continue on.

6 MR. SHEPHERD: Yes. Thank you, Your Honor.

7 BY MR. SHEPHERD:

8 Q. On Exhibit 157, it indicated a location for
9 the -- where the IP address came back to on page 2.

02:10:19 10 What was the location it came back to?

11 A. It came back to extended stay hotels located at 450
12 Grayson Road in Colombia, South Carolina.

13 Q. I would now like to pull up Government's Exhibit 159,
14 and while he is doing that. Were any records obtained from

02:10:40 15 the Extended Stay America related to an Extended Stay
16 America in Colombia, South Carolina?

17 A. Yes.

18 Q. And have you reviewed Government Exhibit 159?

19 A. Yes.

02:10:49 20 Q. And what is Government's Exhibit 159?

21 A. It is a listing of guests who stayed that particular
22 Extended Stay location for a prescribed period of time.

23 Q. If we could move forward to page 2, please.

24 And taking a look at this exhibit, there's a big black
02:11:11 25 bar here under it says, "Guest."

1 Would those be names of guests who are not related to
2 this case?

3 A. Yes.

4 Q. And were those -- are those redacted for purposes of
02:11:24 5 protect being the privacy of those individuals?

6 A. Yes.

7 Q. I would like to move forward to page 4, please.

8 And if we could highlight this entry at the very
9 bottom.

02:11:39 10 Where it indicates room 317?

11 Who is listed as the occupants?

12 A. Tyrinda Hendricks.

13 Q. Who is Tyrinda Hendricks?

14 A. Tyrinda Hendricks, again, per my listening of jail
02:11:59 15 calls as recently as February 24 of 2018, is one of two of
16 Erick Hendricks's Islamic wives.

17 Q. And if you could, please, go back to the full page.
18 This particular date, what's the date for this listing?

19 A. It's as of February 27, 2015.

02:12:21 20 Q. Okay. And if we go back, does it also list an arrival
21 departure date for Tyrinda Hendricks?

22 A. Yes.

23 Q. And what are the arrival departure dates?

24 A. The arrival is February 24, 2015. The departure is
02:12:37 25 March 1, 2015.

1 Q. And if we move forward in time to the next page of the
2 exhibit.

3 Move forward to page 6, please.

4 And what date does the page 6 start the records for?

02:13:02 5 A. As of February 28, 2015.

6 Q. If we could, again, move forward to, I believe, page
7 9.

8 Is Tyrinda Hendricks still listed as a guest as of
9 February 28, 2015?

02:13:24 10 A. Yes.

11 Q. So the chain of information we just went through, what
12 did that show you as an investigator?

13 A. It showed that at least on two occasions the Twitter
14 account @sham_reason was logged into using IP addresses that
02:13:47 15 are directly attributable to two of Erick Hendricks's known
16 Islamic wives.

17 MR. SHEPHERD: Your Honor, may I have one moment
18 to consult, please?

19 THE COURT: You may.

02:14:27 20 MR. SHEPHERD: No further questions at this time,
21 Your Honor.

22 THE COURT: Thank you.

23 Counsel, you may cross-examine.

24 MR. HARTMAN: Thank you, Your Honor.

02:14:36 25 CROSS-EXAMINATION OF RYAN A. PRESLEY

1 BY MR. HARTMAN:

2 Q. Good morning, Agent Presley.

3 A. Good morning.

4 Q. Are you familiar with how Internet service at a hotel
02:14:49 5 works?

6 A. Yes.

7 Q. And that's not a -- usually a private network?
8 Multiple people can get on the network?

9 A. Yes.

02:14:59 10 Q. That's correct?

11 A. Correct.

12 Q. So all those redacted guests who were at that Extended
13 Stay Hotel on that night, any one of them could have been on
14 Internet through that same network?

02:15:12 15 A. Correct.

16 Q. Okay. And we have no idea who was at Andrea Hansen's
17 house between February 27 and March 1 of 2015, correct?

18 A. Correct.

19 Q. So we have no idea who was using the IP address,
02:15:30 20 right?

21 A. Correct.

22 Q. And same thing for the Extended Stay Hotel, we have no
23 idea who was using that IP address on February 27 to March 1
24 of 2015, correct?

02:15:42 25 A. Correct.

1 Q. How close are these two locations to each other?

2 A. I don't know the geographical proximity.

3 Q. Now, you made mention of Mr. Hendricks having multiple
4 Islamic wives.

02:16:02 5 Are you familiar with a part of the Koran that allows
6 a person of Islam to have multiple wives if they're treated
7 equally?

8 A. Yes.

9 Q. And certain sects of Islam still believe that?

02:16:25 10 A. Yes.

11 MR. HARTMAN: Judge, can I have a moment?

12 THE COURT: You may.

13 MR. HARTMAN: Thank you, Special Agent Presley.
14 I have no further questions.

02:16:51 15 THE COURT: Thank you, sir.

16 Any redirect of the witness?

17 MR. SHEPHERD: No, Your Honor.

18 THE COURT: All right, sir. Thank you. You may
19 step down. You're excused.

02:16:57 20 Do you have another witness, please.

21 MR. SHEPHERD: Yes, Your Honor. May we approach
22 briefly?

23 THE COURT: Yes.

24 (Discussion at sidebar as follows:)

02:17:15 25 MR. SHEPHERD: Yes, Your Honor, our next witness

1 is the in-custody witness. It will take them just a minute
2 to get him up here. I don't know if the Court would want
3 to -- we're a few minutes early for a possible lunch break,
4 but I just wanted to check with the Court.

02:17:27 5 THE COURT: How long is this witness's testimony
6 going to be?

7 MR. SHEPHERD: I think mine will be probably 30
8 minutes, to 45 minutes. And I expect extensive cross.

9 MR. DOUGHTEN: May be be more, maybe an a half
02:17:41 10 hour cross.

11 THE COURT: You know, I don't want to break it
12 early, but we will because I think both sides, particularly
13 the defendant, you need the realtime so you have the
14 testimony. So we'll take a break.

02:17:55 15 MR. SHEPHERD: Thanks, Your Honor.

16 (The following proceedings were had in the hearing of
17 the Jury:)

18 THE COURT: Ladies and gentlemen, given the
19 length of the next witness's testimony, and certain other
02:18:06 20 matters I would like to clear up, we're going to take an
21 early lunch. I apologize.

22 Again, sometimes these things happen. And I think it
23 will also make things go more smoothly this afternoon.

24 So we'll break for about an hour, maybe a little bit
02:18:21 25 longer. I hope not. I do have another proceeding starting

1 at noon which I'll deal with expeditiously.

2 But, please, leave your notepads on your chairs.

3 Remember all the admonitions I've given you about not

4 discussing the case among yourselves, forming or expressing

02:18:38 5 any opinions on the matter. And then we'll see you at about

6 12:30, perhaps a little bit -- hopefully not much later than

7 that.

8 Thank you very much, ladies and gentlemen.

9 All rise.

02:18:48 10 (Jury out 11:27 a.m.)

11 THE COURT: All right, Counsel. Just leave a

12 little space at the table for the other proceeding I have at

13 noon. We'll see you about 12:30, thereabouts.

14 (Lunch recess taken.)

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1 (Afternoon Session.)

2 (Outside the presence of the jury:)

3 THE COURT: Everyone ready? Everyone situated?

4 MR. SHEPHERD: Yes, Your Honor.

03:25:35 5 MR. DOUGHTEN: Yes, Your Honor.

6 THE COURT: All right. Our jurors are ready.

7 They've been ready for us for a few minutes, so let's get
8 started.

9 Ms. Kestner.

03:25:43 10 (Jury in, 12:35.)

11 THE COURT: Please be seated, ladies and
12 gentlemen.

13 Counsel for the government, please call your next
14 witness.

03:27:14 15 MR. SHEPHERD: Yes, Your Honor, the government
16 calls Amir Al-Ghazi to the stand.

17 THE COURT: Thank you, at this time, Mr.
18 Al-Ghazi, please.

19 Just be careful, Mr. Al-Ghazi. The seat is a little
03:27:54 20 bit uncomfortable.

21 Are you ready to sir.

22 THE WITNESS: Yes, sir.

23 THE COURT: I'm required to administer the oath.
24 At this time, I'll administer the oath or affirmation.

03:28:05 25

1 AMIR AL-GHAZI,
2 of lawful age, a witness called by the United States,
3 being first duly placed under oath, was examined
4 and testified as follows:

03:28:17 5 THE WITNESS: I a firm.

6 THE COURT: All right. Thank you, we'll note
7 that.

8 Let me give you some brief instructions before we
9 begin.

03:28:22 10 Listen carefully to the question. Please respond only
11 to the question that's asked.

12 If there is any objection to any question, please do
13 not respond to the question until I rule on the objection.
14 Of course, if I say objection -- then you'll not answer the
03:28:36 15 question.

16 Please wait until the attorneys complete their
17 questions. Sometimes we can anticipate answers, but wait
18 because the court reporters have to transcribe what's being
19 said here in the courtroom. And you must respond verbally
03:28:48 20 to all the questions, not through nods, shakes of the head,
21 again, because of the court reporters.

22 We appreciate your cooperation, sir.

23 Thank you very much.

24 Counsel, you may inquire.

03:28:57 25 MR. SHEPHERD: Thank you, Your Honor.

1 DIRECT EXAMINATION OF AMIR AL-GHAZI

2 BY MR. SHEPHERD:

3 Q. Would you please state your full name?

4 A. Amir Said Abdul-Rahman Al-Ghazi.

03:29:07 5 Q. Mr. Al-Ghazi, will you please spell for the court
6 reporter?

7 A. A-M-I-R, S-A-I-D, A-B-D-U-L, dash, R-A-H-M-A-N, A-L,
8 dash G-H-A-Z-I.

9 Q. Mr. Al-Ghazi, where are you originally from?

03:29:26 10 A. Cleveland, Ohio.

11 Q. And is Amir Al-Ghazi the name you were given when you
12 were born?

13 A. No.

14 Q. What was that name?

03:29:36 15 A. My name was Robert Cecil Macullem, Jr.

16 Q. And can you say the middle name just a little slower,
17 please?

18 A. Cecil.

19 Q. When did you change your name?

03:29:48 20 A. I changed my name in 2015.

21 Q. Why did you change your name?

22 A. I changed my name because according to my religion it
23 is a tradition to change the name once you -- not once you
24 become a Muslim, but once you found a name that fits, you
03:30:03 25 change your name.

1 Q. And you say according to your religion.

2 Are you a Muslim?

3 A. Yes, I'm a Muslim.

4 Q. For how long?

03:30:10 5 A. I've been a Muslim since December 1, 2006.

6 Q. And Mr. Al-Ghazi, if you could just slow down a little
7 bit as you speak, that would help the court reporters; okay?

8 A. I apologize.

9 Q. And does your name have any particular meaning?

03:30:21 10 A. To me, yes.

11 Q. And what is that?

12 A. Amir means leader or prince. Said means happy, and
13 Abdul-Rahman means slave of the most merciful. Al-Ghazi
14 means the conquerer or the fighter. In Arabic, it's one who
03:30:44 15 is -- has went to a battle and won and came home, literally.

16 Q. And, Mr. Al-Ghazi, are you currently in custody?

17 A. Yes.

18 Q. And are you awaiting sentencing in a case?

19 A. Yes.

03:30:58 20 Q. Did you plead guilty in Federal Court to attempting to
21 provide material support to a terrorist organization?

22 A. Yes.

23 Q. Did you also plead guilty to two counts of being a
24 felon in possession of a firearm?

03:31:12 25 A. Yes.

1 Q. And are you currently awaiting sentencing in that
2 case?

3 A. Yes.

4 Q. And as part of that case, did you enter into a plea
03:31:23 5 agreement with the government?

6 A. Yes.

7 Q. Now, I want to ask you a few questions about that
8 agreement.

9 Did you agree, as part of that agreement with the
03:31:34 10 United States, to cooperate with the government?

11 A. Yes.

12 Q. In your own words, what did you agree to do?

13 A. I agreed to tell the truth about a conversation I had
14 over social media.

03:31:47 15 Q. And as part of that agreement, did the government
16 agree to dismiss any of the other charges in your case?

17 A. Yes.

18 Q. Were you also charged with multiple counts of
19 marijuana trafficking?

03:32:02 20 A. Yes.

21 Q. And as part of that agreement, are you expecting or
22 hoping to receive any kind of benefit at your sentencing?

23 A. Yes.

24 Q. What are you hoping to receive?

03:32:17 25 A. I'm hoping to receive the deal that we agreed upon in

1 my plea agreement.

2 Q. And what is that specifically you're hoping to
3 receive?

4 A. 192 months, 16 years.

03:32:31 5 Q. But who ultimately will sentence you?

6 A. My judge.

7 Q. And do you also have a prior record before this case
8 came about?

9 A. Yes.

03:32:44 10 Q. Specifically, do you have felony convictions from 1996
11 for drug abuse?

12 A. Yes.

13 Q. From 2006 for having weapons under disability?

14 A. Yes.

03:32:56 15 Q. From 2010 for attempted having weapons under
16 disability?

17 A. Yes.

18 Q. And in 2010 another weapons under disability and
19 multiple trafficking charges?

03:33:06 20 A. Yes.

21 Q. And were those all in state court in Ohio?

22 A. Yes.

23 Q. When approximately were you arrested in the case
24 you're currently awaiting sentencing on?

03:33:18 25 A. On June 19, 2015.

1 Q. And where were you arrested?

2 A. North Olmsted.

3 Q. Where were you living at that time?

4 A. Sheffield Lake, Lorain County, Ohio.

03:33:36 5 Q. At that time were you active on Twitter and social
6 media?

7 A. Yes.

8 Q. What kinds of things were you using social media for
9 at that time?

03:33:48 10 A. I was using social media for -- I don't know the word
11 I'm looking for. I was fuming about the State of Islam
12 today and the allegiance. Islamic State, I guess, would be
13 the succinct answer.

14 Q. And when you refer to the Islamic State, what are you
03:34:22 15 referring?

16 A. I'm referring to the group and the causes of the
17 Islamic State.

18 Q. And where are they located?

19 A. They were located in Syria and Iraq.

03:34:29 20 Q. Are there any other names that you knew them by?

21 A. ISIL, ISIS, al-Qaeda in Iraq, I believe.

22 Q. And at that time, before you were arrested, were you a
23 supporter of the Islamic State?

24 A. Yes.

03:34:43 25 Q. Why was that?

1 A. At the time in my ignorance, I believed that they were
2 a group trying to implement Sharia law in the lands they
3 control, and I believed in my religion that was proper, I
4 guess.

03:35:05 5 Q. Now, was there a time in which you pledged allegiance
6 to that group?

7 A. Yes.

8 Q. How did you do that?

9 A. I retweeted a template on social media.

03:35:15 10 Q. In your social media accounts, how open were you about
11 your support for the Islamic State?

12 A. Very.

13 Q. What do you mean by very?

14 A. Very open. Too open, you could say. I don't
03:35:35 15 know -- what do you want me to say?

16 Q. What kinds of things would you post online that showed
17 your support for the Islamic State?

18 A. I would retweet anything that someone posted about
19 Islamic State, photos, templates, quotes.

03:36:01 20 Q. Would that also include also videos sometimes?

21 A. Yes. Excuse me, videos as well.

22 Q. And at that time was that -- was there a group of
23 other similarly minded ISIS supporters that you would also
24 communicate with?

03:36:15 25 A. Yes.

1 Q. And would they also do the similar types of things on
2 social media?

3 A. Yes.

4 Q. Now, did you -- specifically did you use Twitter
03:36:31 5 during this time?

6 A. Yes, very much so.

7 Q. Now, what is meant when you have a follower on
8 Twitter?

9 A. Excuse me?

03:36:40 10 Q. I'm sorry. What does it mean to have somebody follow
11 you on Twitter?

12 A. If someone is following you on Twitter, you can see
13 their quotes or their tweets and they can see yours and
14 respond to them. And you can respond to theirs in kind.

03:36:56 15 Q. Now, are you also able to communicate directly with
16 people?

17 A. Yes.

18 Q. And how does that work?

19 A. If I remember correctly, someone can directly tweet
03:37:06 20 you or send you to a -- or they can send you like an
21 instance message or direct message and you can talk
22 privately where only you and them can see.

23 Q. And were you doing that in the spring of 2015?

24 A. Yes.

03:37:20 25 Q. And would you have communications on Twitter with

1 other followers of ISIS at this time?

2 A. Yes.

3 Q. Do you remember what any of your user names were on
4 Twitter?

03:37:33 5 A. Any of mine?

6 Q. Yes.

7 A. Abdu Sadiq Al-Ghazi, Amir Muwahid, Abu Muwahid, Amir
8 Al-Ghazi.

9 Q. Did you have multiple accounts on Twitter?

03:37:48 10 A. Yes.

11 Q. Is there a reason why?

12 A. Twitter would delete the accounts once they -- there
13 were so many, so many of us at that time, that they would
14 delete the accounts once they found that you were a follower
03:38:04 15 of ISIS or you were retweeting these different posts.

16 Q. So if your account got deleted, what did you do?

17 A. You would open up another account.

18 Q. Was amiralghazi76 one of your Twitter accounts?

19 A. Yes.

03:38:20 20 Q. Now, during the spring of 2015, did anyone ever
21 contact you through Twitter that you knew as Abu Harb?

22 A. Yes.

23 Q. How did that happen?

24 A. Someone tweeted me, or messaged me and said that they
03:38:42 25 had been looking for me.

1 And we went to a -- the direct message on Twitter.

2 And he directed me to a secure chat room.

3 Q. At that time were you using -- you say a secure chat
4 room. At that time were you typically using secure chat
03:39:05 5 rooms to communicate?

6 A. No, not at all.

7 Q. Do you remember the Twitter account of the person who
8 contacted you?

9 A. @sham_reason.

03:39:19 10 Q. I would like to pull up Government Exhibit 25 at this
11 time.

12 If we could go to page 8, please.

13 Mr. Al-Ghazi, Government's Exhibit 25 is on the page.

14 First, at the top there's a line that says,

03:39:44 15 "amiralghazi76." Do you recognize that name?

16 A. Yes.

17 Q. And just to clarify, what is that?

18 A. What is what?

19 Q. amiralghazi76?

03:39:55 20 A. That's my user account.

21 Q. On Twitter?

22 A. Yes.

23 Q. And do you see on here the account you were just
24 talking about who contacted you on Twitter?

03:40:05 25 A. Yes.

1 Q. And which one is it?

2 A. It's the third one down.

3 Q. And could you read it for us, please?

4 A. Sham-reason.

03:40:12 5 Q. And this a list of your followers on Twitter at that
6 time, based on the heading at the top?

7 A. Yep.

8 Q. And if we could go to page 33?

9 A. I'm sorry, yes.

03:40:26 10 Q. Again, this is page 33 of Exhibit 25 with the heading
11 "amiralghazi76-following."

12 Again, on this list, do you again see the Twitter
13 account that you communicated with?

14 A. Yes.

03:40:46 15 Q. And which one is it again?

16 A. It's about 15 down.

17 Q. And could you read it for us, please?

18 A. Sham-reason. It's up under Sh_AnwarAwlaki and
19 jazrawi_camels.

03:41:08 20 Q. Mr. Al-Ghazi, prior to your testimony today, have you
21 reviewed a -- a copy of communications with sham-reason?

22 A. Have I reviewed a copy --

23 Q. Did you review a copy of communications with
24 sham-reason from the Twitter account?

03:41:29 25 A. Yes.

1 Q. Could we please move to Government's Exhibit 25A?

2 And if we could advance to page 8, please.

3 Does this look familiar to you, Exhibit 25A?

4 A. Yes.

03:41:57 5 Q. I'm going to circle how this conversation begins,
6 these first three lines.

7 Does this -- again, does this look familiar what I've
8 just circled? The top three entries?

9 A. Yes.

03:42:16 10 Q. And starting at the one on the bottom, could you
11 please start with that?

12 A. It says, "wa salamu alaikm ahki."

13 Q. And what does that mean?

14 A. It means "May peace and blessings be upon you,
03:42:31 15 brother."

16 Q. And what's the response too that?

17 A. The response is "wa salamu alaikm ahki."

18 Q. Can you slow down with that, please?

19 A. Wa salamu alaikm ahki.

03:42:44 20 Q. So typed here I see the letters WR and WB.

21 A. Yes.

22 Q. What does the WR stand for in what you just said?

23 A. Wah rahmatullah.

24 Q. Are you able to spell that?

03:42:57 25 A. If you want me to.

1 Q. Please do for the court reporter?

2 A. W-A-H, Rahmatullah, R-A-H-M-A-T-U-L-L-A-H.

3 Q. And then what about the WB?

4 A. Wah Barakaa Tuhu.

03:43:21 5 Q. And could you spell that, please?

6 A. Wah, W-A-H, Barakaa Tuhu, B-A-R-K-A-A, T-U-H-U.

7 Q. Then what's the third entry at the top of the page?

8 A. Someone says, "I've been trying to get up with you,
9 akhi."

03:43:48 10 Q. Do you remember receiving that message?

11 A. Yes.

12 Q. Did that message mean anything to you at the time?

13 A. Yes.

14 Q. Please explain what you mean by that?

03:43:59 15 A. It obviously meant that he had been looking for me,
16 but it sent my spider signals off, but he said "I been
17 trying to get it with you, Ahki," and that would only one --
18 well, there would be only one reason why he would be trying
19 to look for me.

03:44:17 20 Q. Why do you say that?

21 A. I am posting crazy messages on Twitter. Why would you
22 try to get up with me if he weren't trying to have something
23 in common with me?

24 Q. And what -- when you say crazy message on Twitter,
03:44:31 25 what kinds of crazy messages?

1 A. Well, if you look at my history on social media, I'm
2 talking -- I don't know the word. I'm saying things on
3 Twitter in support of Islamic State. And I'm saying them
4 out loud and bold.

03:44:54 5 Do you understand what I mean?

6 Q. So would it be fair to say you're holding yourself out
7 there?

8 A. I guess.

9 Q. I would like to pull up Government's Exhibit 25B.

03:45:13 10 Mr. Al-Ghazi, I'm showing you Government Exhibit 25B
11 which is a transcript of Exhibit 25A.

12 Do you see that?

13 A. Yes.

14 Q. Does this conversation look to you to be the same one
03:45:29 15 that was in 25A that we were just looking at?

16 A. Yes.

17 Q. I would like to start where we left off. There's a
18 message received by you, "I've been trying to get up with
19 you, akhi.

03:45:43 20 How did you respond?

21 A. I responded, "Subhan' Allah i've found a bro on the
22 manhaj in America, Lol."

23 Q. What does the Subhan' Allah mean?

24 A. Subhan' Allah means glory be to God?

03:45:58 25 Q. And the manhaj?

1 A. Manhaj means the way or the path.

2 Q. And so the phrases that you've been providing
3 definitions for, are these words and phrases that are part
4 of the Islamic faith?

03:46:13 5 A. Yes.

6 Q. Do you speak Arabic?

7 A. A little.

8 Q. Do you understand those parts relevant to the Islamic
9 faith?

03:46:20 10 A. Yes.

11 Q. There's also a response, "What's up, Akhi." What does
12 Akhi mean?

13 A. Akhi means my brother.

14 Q. And then moving down, the third entry from the top,
03:46:39 15 will you please reads that entry?

16 A. It says, "We need secure chat. Not here. Kuffar try
17 to make things out that's not real."

18 Q. And was that a message you received from the
19 sham-reason Twitter account?

03:46:53 20 A. Yes.

21 Q. What does Kuffar mean?

22 A. Kuffar means nonbelievers or non-Muslims.

23 Q. And how is that term used or how was that term used at
24 this time among ISIS supporters?

03:47:08 25 A. Well, the term denotes anyone who is not a Muslim.

1 Q. And what would be the sort of Islamic State, as you
2 understood it at the time, as a supporter of the Islamic
3 State, what would be the opinion of the Kuffar? What would
4 have been your opinion of nonbelievers at that time?

03:47:33 5 A. My opinion of nonbelievers at that time would have
6 been the opinion of the Islamic State that they are not with
7 us, not -- you know, I don't want to say expendable, but so
8 much of that. But that's not quite the case.

9 Q. Okay. What do you mean by that?

03:47:55 10 A. Nonbelievers have rights as well. And I don't
11 know -- I can't remember at that time if the Islamic State
12 is upon that opinion but that's the truth of the matter.
13 That's something they can't deny even as Muslims.

14 Q. Okay. And then there's further discussion about
03:48:14 15 setting innocent people up.

16 Do you remember that conversation?

17 A. Yes. He says they set people up, innocent people.

18 Q. Now, when you're doing these direct messaging
19 conversations, does it always work that there's a clean
03:48:28 20 question, answer, or statement in response?

21 A. Say that again for me.

22 Q. Let me rephrase. When you're responding on one of
23 these instance messages or direct messages, are you
24 sometimes responding to an earlier question by the time you
03:48:45 25 type your response?

1 A. Oh, yes, because -- because sometimes it's either
2 delayed or maybe I'm typing too fast or he's typing too
3 slow.

4 Q. Let's move on to page 2, please.

03:49:01 5 Okay. There's a response at the top. All human doll
6 little what?

7 A. A hum do la.

8 Q. A hum do la. What does that mean?

9 A. A hum do la means that all things are for God alone.

03:49:20 10 Q. And what was your response to that?

11 A. I say, yes, I know.

12 Q. And then what was your next response?

13 A. "This is my 6 account."

14 Q. That was that referring to?

03:49:32 15 A. Referring to Twitter.

16 Q. As you explained earlier about having to set up new
17 accounts?

18 A. Yes.

19 Q. There's then a couple of messages from @sham-reason.

03:49:45 20 What were those?

21 A. Chat Secure and Surespot.

22 Q. And what are Chat Secure and Surespot?

23 A. Chat Secure and Surespot are correct chat rooms,
24 secure chat rooms, excuse me.

03:50:04 25 Q. And are those additional ways you could communicate

1 with someone?

2 A. Yes, they are platforms where you can communicate
3 without the government or someone else seeing your
4 conversation.

03:50:15 5 Q. As this conversation is going on, what did you think
6 the purpose of these communications was?

7 A. It was obvious to me that he wanted to talk to me
8 alone without the eyes of the government or someone else, or
9 the Kuffar.

03:50:32 10 Q. Did he suggest any other possible applications?

11 A. Here Wickr and I believe that was it.

12 Q. And then did he also suggest where -- what kind of
13 device you could use to find these applications?

14 A. The Android market.

03:50:50 15 Q. Let me move to page 3, please.

16 So during this communication, did you also discuss
17 with him the sort of benefits of any particular application?

18 A. The benefits of the social media application?

19 Q. Yes.

03:51:17 20 A. Yes.

21 Q. And what did you guys talk about?

22 A. Here it says that Chat Secure is the recommended one.
23 And he sees brothers using Surespot so that it can be a
24 secure platform.

03:51:33 25 Q. Did you indeed download one of these other social

1 media applications?

2 A. Yes.

3 Q. Which one did you download?

4 A. I downloaded Chat Secure.

03:51:45 5 Q. And did you tell him that in this chat?

6 A. Yes.

7 Q. There's a response -- would you read after you say,
8 "Downloading Chat Secure," what was his response?

9 A. "Good. It would take a little sabr to complete."

03:52:02 10 Q. What does sabr mean?

11 A. Sabr means patience.

12 Q. And what was your response?

13 A. "In sha allah."

14 Q. And what does that mean?

03:52:09 15 A. In sha Allah means God willing.

16 Q. Had you ever used Chat Secure before?

17 A. Never.

18 Q. So did you have -- even have an accountant Chat
19 Secure?

03:52:18 20 A. No.

21 Q. Did sham-reason provide you instructions and how to
22 proceed?

23 A. Yes.

24 Q. And is that reflected here in this transcript?

03:52:27 25 A. Yes.

1 Q. Okay.

2 If we can please move -- well, before I move to page
3 4, can you read the entry from sham-reason, third from the
4 bottom?

03:52:38 5 A. It says, "Make up a new user name, nothing Islamic,
6 then it's going to ask domain."

7 Q. When you received that instruction, nothing Islamic,
8 what did you think was meant by that?

9 A. So that it wouldn't be looked upon as an Islamic
03:52:58 10 account.

11 Q. And why would that be important to you?

12 A. Because I was on Twitter putting myself out there.
13 And if someone happened to follow our conversation, they may
14 be able to know that I was going to Chat Secure with an
03:53:12 15 Islamic account.

16 Q. Now, please go to page 4.

17 Did you ultimately creat a user name for Chat Secure?

18 A. Yes.

19 Q. What user name was that?

03:53:27 20 A. I picked the name Bobbiemac.

21 Q. Why was that?

22 A. My name previously was Robert Macullem. Bobby is
23 short for Robert and Mac is short for Macullem.

24 Q. And did you provide your user name to @sham_reason?

03:53:43 25 A. Yes.

1 Q. Okay. If we could please move to page 5.

2 Were you able to sign in to Chat Secure?

3 A. No, I had to sign out. He told me to sign out, sign
4 back in.

03:54:00 5 Q. Were you ultimately successful in getting on to Chat
6 Secure?

7 A. Yes.

8 Q. And did you have a conversation on Chat Secure with
9 this @sham_reason?

03:54:08 10 A. Yes.

11 Q. Now, I want to look at -- there's a time listed here.
12 The second entry down, it says sign out and back in.

13 Do you see that entry?

14 A. Yes.

03:54:20 15 Q. What's the time listed?

16 A. The time is 22:39.

17 Q. On what day?

18 A. March 25, 2015.

19 Q. And when is the next entry?

03:54:31 20 A. March 26, 2015 at 50.

21 Q. So what happened during that gap in time between those
22 two entries?

23 A. Between that gap in time, we had a conversation.

24 Q. And where was that conversation held?

03:54:48 25 A. On Chat Secure.

1 Q. Did he give you his name when you were communicating
2 with him on Chat Secure?

3 A. No.

4 Q. Did he call himself by any name on Chat Secure?

03:54:56 5 A. No, I believe his -- the profile thing was Abu Harb.

6 Q. His user name on Chat Secure?

7 A. Yeah. Yes.

8 Q. What did you discuss with Abu Harb on Chat Secure?

9 MR. DOUGHTEN: Objection.

03:55:16 10 THE COURT: Sidebar, please, real quickly.

11 (Discussion at sidebar as follows:)

12 THE COURT: What's the basis for the objection?

13 MR. DOUGHTEN: Judge, I mean there's not -- your
14 going into conspiracy. There's no conspiracy established
03:55:35 15 yet, so it's just pure hearsay. I don't know the content of
16 what he's going to say.

17 MR. SHEPHERD: Your Honor, we submit this is
18 statements of a party opponent because this is the same
19 account that he just came from @sham_reason, and that we had
03:55:50 20 prior testimony to establish that that account was tied into
21 locations that are tied to the defendant. And our position
22 is that Abu Harb is the defendant, so it would be statements
23 of a party opponent.

24 THE COURT: I'm going to allow it I think at this
03:56:06 25 point, based on what we've heard in the testimony so far.

1 MR. DOUGHTEN: Okay.

2 THE COURT: Thank you. I'll just overrule it.

3 (The following proceedings were had in the hearing of
4 the Jury:)

03:56:21 5 THE COURT: All right the objection is overruled
6 at this time.

7 Counsel, you may proceed.

8 MR. SHEPHERD: Thank you, Your Honor.

9 BY MR. SHEPHERD:

03:56:28 10 Q. Mr. Al-Ghazi, what did you discuss with Abu Harb on
11 Chat Secure?

12 A. Abu Harb asked me where was I located? How did I
13 earn? Did I know the punishment for snitching or telling on
14 a Muslim? Would I be willing to come to Texas and train,
03:56:54 15 that he was a recruiter.

16 He didn't say for ISIS, but he said that he was a
17 recruiter.

18 He said that we must meet face-to-face so that we
19 could have military training in Texas. Did I know any other
03:57:12 20 brother -- did I have any other brothers with me.

21 Q. Did he ask you at all about what your intentions were
22 or willingness was?

23 A. Yes.

24 Q. What did he ask you?

03:57:31 25 A. Am I willing to wage jihad on the Kuffar.

1 Q. Did he mention anything about where he was located?

2 A. He said he was in Texas, would I be willing to travel.

3 Q. Did he state whether or not there are other people
4 involved?

03:57:56 5 A. I asked him that, was he by himself. He said that
6 there were more of us in Texas.

7 Q. Was there any discussion of weapons?

8 A. He asked me did I know how to use weapons. He didn't
9 say that he had any weapons.

03:58:12 10 Q. Was there any reference to the concept of Jena, or
11 Jannah?

12 A. Paradise?

13 Q. Yes.

14 A. I believe he asked me did I know that to die as a
03:58:33 15 martyr we will, Muslims receive paradise. And I said yes.

16 Q. You stated earlier he asked you how you earned. What
17 was meant by that?

18 A. I assume he asked me how I made money.

19 Q. And what was your response?

03:58:55 20 A. I told him that I sold weed.

21 Q. How did he respond to you about that?

22 A. He said that a jihadi doesn't do that.

23 Q. Was there anything important to you about that
24 response?

03:59:13 25 A. Yes, at the time I believed that either he was an FBI

1 agent or that he was from the west because he used the word
2 jihadi.

3 In my experience, people from overseas use the word
4 mujahid. A mujahid is the proper term. A mujahid is one
03:59:35 5 who practices in jihad. A person from the west was saying
6 the term jihadi. It's the term that CNN uses or people from
7 the west use and it caught my attention.

8 Q. What about the criticism of how you earned? Did that
9 catch your attention as well?

03:59:53 10 A. When he asked me how I earned and I told him I sold
11 weed, he seemed angry and it made me think that he was the
12 real deal probably.

13 Q. Why?

14 A. Why else would he be angry? Real Muslims -- I don't
04:00:09 15 want to say real Muslims don't sell weed, but real
16 mujahideen don't sell drugs. And I just told him that I
17 sold weed.

18 Q. What was your overall reaction to this conversation?

19 A. Fear.

04:00:30 20 Q. Why?

21 A. Well, he asked me where I was, where was I located.
22 And I lied to him. I didn't -- if he was the real deal,
23 then I don't want this guy knowing where I'm at.

24 Q. So what did you tell him?

04:00:45 25 A. I believe I told him Indiana.

1 Q. Did he ask you to provide him with anything?

2 A. I believe he asked me did I have any -- were there any
3 people with me, meaning any brothers willing to -- that felt
4 the same as I did. And I told him there was another brother
04:01:05 5 in Baltimore and that I will relay that information to him.

6 Q. Did you provide any information to Abu Harb about that
7 other brother?

8 A. I believe I gave that brother's in Baltimore his name,
9 his user name.

04:01:19 10 Q. Is that someone else you were communicating with
11 online?

12 A. Yes.

13 Q. So during this conversation that you were having on
14 Chat Secure, who did you think he was recruiting for?

04:01:44 15 A. I believed him to be a recruiter for the Islamic
16 State.

17 Q. Why is that?

18 A. The Islamic State were the prolific group in the world
19 at that time. They had just came out, or they were -- they
04:01:56 20 were the only ones who I was pledging allegiance to. So if
21 you were looking for me -- well, you wouldn't be looking for
22 me if I was pledging allegiance to the Taliban or Boko
23 Haram. If you say you were looking for me, I was pledging
24 allegiance to ISIS at the time.

04:02:14 25 Q. So after the chat on this -- this conversation on Chat

1 Secure -- well, first, strike that.

2 Going back to this initial conversation, did you feel
3 at all like he was testing you during this conversation?

4 A. Yes. He asked me did I know the punishment for
04:02:33 5 telling on a Muslim or betraying the Muslims. And I told
6 him, yes, the punishment is death.

7 Q. After the conversation on Chat Secure, did you again
8 communicate on Twitter?

9 A. Immediately after -- not after that, though, but
04:02:53 10 immediately after coming out of the Secure Chat Room.

11 Q. After you came out of the chat room, taking a look at
12 page 5 of Exhibit 25B, are those communications on Exhibit
13 25 B?

14 A. Yes.

04:03:12 15 Q. What was sham_reason talking about after this
16 conversation?

17 A. Honestly, he made it up. I have no idea. He said
18 that he was happy -- he was glad that we spoke probably for
19 the interview for his article and journalists and bloggers
04:03:34 20 under scrutiny too, but there was no interview.

21 Q. Was any of that true?

22 A. Not at all.

23 Q. During the communications on Chat Secure, did you
24 receive any other advice on how to communicate with other
04:03:45 25 people?

1 A. From him?

2 Q. From him.

3 A. Not that I recall.

4 Q. Was there any other discussion of secure ways of
04:03:57 5 communication?

6 A. Besides Chat Secure?

7 Q. Or other -- right, besides Chat Secure. Were any
8 other applications discussed with him?

9 A. Not that I can remember.

04:04:08 10 Q. Now, after this conversation on Chat Secure and then
11 on Twitter, do you recall if you had any other
12 communications with this Abu Harb?

13 A. No. I -- I'm sorry. I mentioned to him the guy from
14 Baltimore's name. But I don't remember getting a response
04:04:31 15 from him. You can get back on Chat Secure and say -- it's a
16 streamline platform. And I think I got back on at a later
17 date and gave him the name of the guy from Baltimore, but I
18 don't remember him responding.

19 Q. Did you ever communicate with that guy from Baltimore?

04:04:50 20 A. Yes.

21 Q. And did you ever discuss with him this conversation
22 you had with Abu Harb?

23 A. Yes.

24 Q. I would like to pull up Government's Exhibit 26 at
04:05:01 25 this time.

1 What is -- do you see Exhibit 26 on the screen?

2 A. Yes.

3 Q. What is Exhibit 26?

4 A. Exhibit 26 is mean talking to the brother from
04:05:17 5 Baltimore.

6 Q. And on what communication application is this?

7 A. I think this is Chat Secure.

8 Q. Who is Abu Sadiq, the name at the top?

9 A. Abu Sadiq is me.

04:05:44 10 Q. Are you sure this is Chat Secure just looking at it?

11 A. No, I'm not sure. But it may be -- it may be Twitter.
12 It's been a long time since I look at any social media.

13 Q. Do you recognize this conversation, the content,
14 however?

04:06:01 15 A. Yes.

16 Q. And let's move forward to page 2, please.

17 Actually let's go back to page 1.

18 So what's the date of this conversation?

19 A. 4/6/15.

04:06:19 20 Q. And so is this after the conversation you had with Abu
21 Harb?

22 A. Yes.

23 Q. In the middle there's a reference to no talking on
24 Twitter or Google Plus. What did you mean by that?

04:06:33 25 A. We can't discuss anything of any sketchy nature. This

1 may be in Google Plus.

2 Q. I would like to move forward to page 2.

3 Okay. In the middle of this page, will you read the
4 communications in the middle of page 2, please.

04:06:57 5 A. "Now IS is here in Texas, I believe."

6 Q. Was that you sending those communications?

7 A. Yes.

8 Q. What did you mean by "Now IS is here"?

9 A. Now the Islamic State is here.

04:07:13 10 Q. What prompted you to say that?

11 A. Abu Harb had told me so.

12 Q. And what was the reference to Texas?

13 A. That's where he was at. Where he said he was at.

14 Q. Was this a reference to that same conversation?

04:07:26 15 A. Yes.

16 Q. Move to page 3, please.

17 And just taking a look here, what does this summarize
18 here? Or what is this series of communications saying?

19 A. This communication is somewhat summarizing my
04:07:45 20 communication with Abu Harb.

21 Q. And what are you telling this other person?

22 A. I'm telling the brother in Baltimore about the
23 conversations that me and Abu Harb had.

24 Q. And does that include the "Told me to put bros in
04:08:02 25 contact with him"?

1 A. Yes, it does.

2 Q. And did you essentially summarize the conversation you
3 had with Abu Harb to this other brother?

4 A. Yes.

04:08:12 5 Q. And what did you say at the bottom of this page?

6 A. He asked could I travel.

7 Q. Please move to page 4.

8 And what did you respond here?

9 A. I said, "Not immediately."

04:08:33 10 Q. What else did you tell --

11 A. I told him I don't know -- I told him -- he asked me
12 how I earned. I told him I sell weed or I sold bud.

13 Q. Is that a reference to marijuana?

14 A. Yes.

04:08:45 15 Q. Okay. And if you would please move to the next page.

16 And what were you stating on this page?

17 A. He said a mujahid doesn't do this. That's the
18 response to the question that he asked me about how did I
19 earn.

04:09:05 20 The guy from Baltimore asked me what's his user name
21 on Twitter.

22 I said, "So in case he the police or thinks we are to
23 keep everyone safe."

24 I believe I was telling him about being on Chat
04:09:19 25 Secure, but the messages are delayed.

1 Q. Please move to the next page, page 6.

2 And what were you saying here?

3 A. I told the guy from Baltimore that Abu Harb said he
4 says everyone has to meet in person and that's all I know.

04:09:39 5 And then I tell the people, which mean the federal
6 government, are on to me, though. My accounts are being
7 targeted.

8 Q. At that time did you believe your accounts were being
9 targeted?

04:09:52 10 A. Yes and no.

11 Q. Move on to page 7, please.

12 And what did you say on page 7?

13 A. I said, "I don't know. We all might be in the feds
14 for life or in paradise."

04:10:17 15 Q. What did you mean by that reference?

16 A. I meant by that reference that if he found that we
17 agreed to do what he wanted us to do that we would be caught
18 by the federal government and possibly be in prison for life
19 or die in paradise.

04:10:31 20 Q. Then what was the next thing you wrote?

21 A. I said, "He didn't say we was going to do anything."

22 Q. Go to page 8, please.

23 And first, what did you mean by that statement?

24 A. He didn't give me any information. Abu Harb didn't
04:10:54 25 give me any information about doing anything. All he said

1 was we should meet face to face and all the brothers should
2 meet each other.

3 He didn't give any instructions after that.

04:11:08 4 Q. And then on page 8, what were you telling this other
5 brother?

6 A. Abu Harb -- I was telling him that Abu Harb had told
7 me that he reminded me that the punishment for telling on a
8 Muslim was death.

9 "I said I know I'm not the cops, haven't heard from
04:11:22 10 him since."

11 Q. Mr. Al-Ghazi, after this communication with the
12 brother in Baltimore, did you ever hear back from Abu Harb?

13 A. No.

14 Q. At any point did you ever become afraid because of the
04:11:45 15 conversation you had had with Abu Harb?

16 A. Yes.

17 Q. When was that?

18 A. Almost immediately.

19 Q. And again, why was that?

04:11:53 20 A. Either one of two things. Either he was the real
21 deal, and a real Islamic State recruiter, or he was the
22 federal government. Both would have been bad. You can get
23 in trouble for talking to -- to have these conversations.
24 You can also get -- if you're a weaker-minded individual,
04:12:21 25 you can get roped into whatever Abu Harb was trying to get

1 you to do. Both are bad. So I was immediately -- I had a
2 wife and children at home.

3 Q. Where were you physically located when you were having
4 these conversations with Abu Harb?

04:12:36 5 A. In my house.

6 Q. And where was that house located?

7 A. Sheffield Lake.

8 Q. And is that in Ohio?

9 A. Yes, Sheffield Lake, Lorain County, Ohio.

04:12:46 10 Q. Mr. Al-Ghazi, why are you here today?

11 A. I'm here today to atone for the things that I've done.

12 In my religion, you have to follow bad deeds with good
13 deeds. The only way that I can atone for the things that
14 I've said and done, referring to this, is to be absolutely

04:13:16 15 honest and transparent, you know, me sitting in a cell is
16 one thing, but I would never be able to say "I'm sorry"
17 socially. I would never be able to say "I made a mistake
18 socially."

19 This is the only way I can do it by disassociating
04:13:31 20 myself from Abu Harb or the guy from Baltimore, whoever
21 these people are that are associated with these type of
22 people.

23 MR. SHEPHERD: No further questions, Your Honor.

24 THE COURT: Thank you.

04:13:40 25 Mr. Al-Ghazi, are you ready to go? Are you okay?

1 THE WITNESS: Yeah.

2 THE COURT: Do you need restroom, water or
3 anything like that.

4 CROSS-EXAMINATION OF AMIR AL-GHAZI

04:13:52 5 BY MR. DOUGHTEN:

6 Q. Good afternoon sir. Is it okay if I call you Mr.
7 Al-Ghazi? Or is there a way you prefer to be addressed?

8 A. No, Mr. Al-Ghazi is fine.

9 Q. Let me tell you what I'm going to do. I'm going to
04:14:03 10 ask you some questions, a little bit about your background,
11 how you got into Islam. Then I'm going to ask you about
12 what you said in direct, and then I'm going to ask you
13 lastly about your plea agreement. All right?

14 A. Sure.

04:14:13 15 Q. Okay. Now, what religion were you raised?

16 A. No religion.

17 Q. Okay. And so if you could tell us about what
18 attracted you to Islam?

19 A. My first wife died in my arms. She was a Christian.
04:14:38 20 And her death was so traumatic, that I found myself looking
21 to find out where she went after death, to be honest.

22 Q. Okay.

23 A. So I started searching religions. And in doing so, it
24 led me to Islam.

04:14:59 25 Q. About how old were you then?

1 A. When she died or when I became a Muslim.

2 Q. I'm sorry. When you became a Muslim.

3 A. Maybe about 30-something.

4 Q. And what year was that?

04:15:13 5 A. 2006.

6 Q. All right. Now, you would agree with me, like many
7 religions, there's many sects of Islam and many particular
8 beliefs in Islam?

9 A. Sure.

04:15:23 10 Q. Okay. And at first, was your beliefs, were they
11 radical right at the beginning?

12 A. No. Not at all.

13 Q. Okay. And so at some point in time, if I heard you
14 correctly, you became more radical over time; is that right?

04:15:40 15 A. I didn't say that. No.

16 Q. Well, okay.

17 Did you become more radical over time?

18 A. Yes.

19 Q. Okay. What caused that?

04:15:49 20 A. I was in prison. And my Islamic education was yet
21 unfinished. And I was being taught Islam in prison by a man
22 who was angry. And he was teaching me something called al
23 wala walbara. That means to hate with what God hates and
24 love what God loves.

04:16:13 25 This section in Islam is really under the jihad

1 section of being taught anyway.

2 Long story short. I wound up getting out before my
3 education was complete.

04:16:28

4 Q. Now, when you're saying you were educated, this is by
5 another inmate?

6 A. Yes.

7 Q. And do you know what his background was?

8 A. I found out later that he was in jail for rape.

9 Q. I didn't mean that. I'm sorry.

04:16:35

10 His religious background. I guess my question is,
11 what was it about this person that caused you to believe
12 that he was telling you the correct version?

13 A. I didn't know if it was the correct version or not. I
14 was young and impressionable, and I was looking for
15 brotherhood, to be honest.

04:16:58

16 And he provided that. And he was teaching maybe about
17 12 of us.

18 Q. So would it be fair to say you were vulnerable at that
19 time?

04:17:10

20 A. Yes.

21 Q. And --

22 MR. SHEPHERD: Objection, Your Honor, to
23 relevance.

24 THE COURT: It's overruled.

04:17:16

25 BY MR. DOUGHTEN:

1 Q. And so because of your situation, I guess, for lack of
2 better term, that was the only aspect of Islam that you had
3 been taught in, correct?

4 A. Well, like I was saying, my education was incomplete.
04:17:34 5 He started to teach us and -- I may have gotten the first
6 part of the sentence, but I wound up getting out before he
7 finished his sentence.

8 Do you understand what I'm saying?

9 Q. Yes, I do.

04:17:46 10 So were you aware at that time that your education was
11 incomplete, or was this something you realized years later?

12 A. I realized it later.

13 Q. At the time you believed it was complete, correct?

14 A. I believed I was on the right track.

04:17:58 15 Q. Okay. In what year did you get out?

16 A. I got out from there in 2008.

17 Q. Okay. Now, what did you do from 2008 until
18 essentially -- I'm talking religious-wise. From 2008 to,
19 say, 2014, did you become increasingly radical in your
04:18:20 20 opinion?

21 A. Not so much. Not until about 2013.

22 Q. Okay.

23 A. 2012, maybe.

24 Q. So let's go there.

04:18:36 25 What was it that caused you to take a more, I guess,

1 radical view of Islam that you had previously?

2 A. Trying to learn Islam is like trying to teach
3 yourself -- by yourself is like trying to teach yourself
4 algebra by yourself.

04:18:52 5 I didn't have a teacher, so to speak, that would touch
6 on the State of Islam at that time.

7 What I mean by that is I sat at the foot of two
8 sheikhs, but when you -- when I asked them about --

9 Q. Let me interrupt you. A sheikh, what's a sheikh?

04:19:11 10 A. A sheikh is a knowledgeable Muslim scholar.

11 Q. Okay. Go ahead.

12 A. When I asked the question about jihad and about the
13 plight of the Muslims today in the world, I would get no
14 answer.

04:19:29 15 And what someone told me was because the Muslims in
16 America today are so afraid of the government that they
17 won't speak about Jihad which left my education unfulfilled.

18 Q. Let me stop you because you said a lot, and I want to
19 make sure we have it right.

04:19:43 20 When you said the State of Islam in America, are you
21 saying right now or at that time?

22 A. At that time.

23 Q. And so you used the term "jihad." Now, I've heard
24 that there's both a militant meaning for jihad and a
04:19:59 25 nonmilitant meaning for jihad. Is that accurate?

1 A. Yes, that's accurate. I know that now. I didn't know
2 that then.

3 Q. When did you think then?

4 A. I thought then that jihad meant holey war. But it
04:20:11 5 doesn't mean that. Jihad actually means --

6 Q. Go ahead, I'm sorry. Finish.

7 A. Actually means to strive or struggle.

8 Q. Now, back then, you thought it meant holy war. In
9 your mind, did this mean violence?

04:20:26 10 A. Yes.

11 Q. So at this time, did you feel that it was your duty as
12 a Muslim to commit violence?

13 A. No.

14 Q. So explain that.

04:20:40 15 A. I didn't feel like it was my duty. I did know that
16 jihad came with conditions. There must be a group, a Muslim
17 ruler, to send out the Muslim soldiers, the mujahideens, but
18 like I'm saying, my education was incomplete at that time,
19 so.

04:21:06 20 Q. I understand. That's what I was going to ask.

21 So how did you educate yourself once you got out? Was
22 it through the Internet? Was it talking to sheikhs? How
23 did you do it?

24 A. The sheikhs wouldn't discuss it. I started to read.
04:21:19 25 I started to buy books, and I started to look at Twitter and

1 YouTube. I'm not saying my education was all about jihad.
2 I'm speak about jihad because that's what the Islamic State
3 was really upon, right.

04:21:40 4 Q. Okay. And I think you're referring to about 2015,
5 which you would agree was maybe the height of the caliphate,
6 would that be correct, in your view?

7 A. Oh, I don't know. I don't have that answer.

8 Q. Okay. Well, at some point in time, late 2014, late
9 2015, you unabashedly putting on social media platforms
04:22:03 10 pretty radical views, correct?

11 A. Yes.

12 Q. So I'm asking about, what discussed that transition
13 where you were so open about it?

14 A. Unfortunately I was I inebricated and ignorant and
04:22:20 15 angry.

16 Q. By inebricated, you mean alcoholic and drunk?

17 A. No. I was abusing drugs at the time and I chose to
18 push the envelope. I chose to be loud. I was angry.

19 Q. And what did you -- how did you believe that you
04:22:38 20 pushing the envelope, so to speak, would work in your favor?

21 A. I didn't think it would work in my favor, but like I
22 was going to explain, jihad has facets. It's not always
23 about the gun or violence.

24 Jihad can be with the tongue, to speak out against
04:22:56 25 oppression, and things that are wrong.

1 So I wasn't -- I'm not a sheikh or scholar. The only
2 thing that I had was allowed voice and social media. And I
3 was angry and I pushed the envelope. I said things that
4 other people weren't saying to cause a reaction. This is
04:23:17 5 the result of that reaction.

6 Q. Okay. But, for example, what type of things did you
7 put on social media before Abu Harb contacted you? What
8 type of things were you putting out there?

9 A. Well, I can't remember anything specific.

04:23:30 10 Q. Just generally.

11 A. I don't know. It's been a long time.

12 Q. Well -- and again, correct me if I'm wrong. You were
13 becoming angry with your situation in life. And as a young
14 man, you were just taking out that anger by venting?

04:23:52 15 A. Yes.

16 Q. Negative things on social media, correct?

17 A. Yes.

18 Q. And part of those vents was supported of ISIS,
19 correct?

04:24:01 20 A. Yes.

21 Q. So what I'm trying to understand is how did you vent,
22 prior to Abu Harb, your support of ISIS?

23 A. There were 800 to 1,000 of us on Twitter. A lot of
24 this was retweeting and parroting things that I heard from
04:24:23 25 this group that calls themselves the Islamic State, a lot of

1 this retweeting and parroting stuff other people say.

2 Q. I'm trying to understand what stuff. What was the
3 content of your, for lack of your better word, your vitriol,
4 your anger? What was the content of these platform
04:24:41 5 statements that you were retweeting with other people?

6 A. What was the state of Syria. I was angry about how
7 Bashar Al-Assad was killing his own country people and how
8 America, America was all for getting him out of office at
9 first. And then all of the sudden, you know, they changed
04:25:07 10 direction.

11 And I felt it was my duty as a Muslim to, you know,
12 speak against that.

13 Then you had officers in America killing unarmed black
14 men and I was angry about a lot of things.

04:25:24 15 Q. So how is this pro-ISIS, because what you seem to be
16 saying to us here is that you were venting legitimate
17 political dissent?

18 A. Yes.

19 Q. How was this pro-ISIS?

04:25:38 20 A. ISIS was the 800-pound gorilla in the room at the
21 time. I'm a nobody with just a voice. You know, I felt
22 that the only way that I could gain some attention on the
23 social media stage is to adhere myself to this 800-pound
24 gorilla in the room. Do you understand?

04:25:59 25 Q. That was my question. So you were doing this to gain

1 attention. Whose attention were you hoping to be gain?

2 A. I don't know. Anybody's. You know, no one knows me.
3 No one knew me. No one still knows me.

4 Q. So is it fair to say that your tweets were basically
04:26:17 5 to vent? It wasn't really to cause anybody to join with you
6 or cause any particular goal?

7 A. Yes. It would be safe to say that.

8 Q. Okay. Now, I'm going to ask you a little bit about
9 how your mind changed. And then I want to come back to
04:26:37 10 where we were.

11 So as you sit here today, are you still a Muslim?

12 A. Yes.

13 Q. Okay. What changed your view, or what changed your
14 position about ISIS?

04:26:49 15 A. Honestly?

16 Q. Yes.

17 A. Sobriety and education. I haven't indulged in any
18 illegal substance while in prison at all from the last three
19 years. I've also had the opportunity to have a good Islamic
04:27:08 20 library and brothers around me to teach me.

21 Then you can blatantly see for yourself that if the
22 Islamic State was who they say they were at all, they would
23 have been successful.

24 Q. Okay. So if I'm hearing you today, you've rejected
04:27:22 25 the position of the Islamic State?

1 A. Of course.

2 Q. We got to be clear?

3 A. Yes.

4 Q. Okay. So about when did you come to the realization
04:27:30 5 that you were, I guess, misled by ISIS? When did that
6 occur?

7 A. Probably my first year in prison, to be honest. You
8 hear reports about these people raping the Yazidi women,
9 using people as human shields and killing women and
04:27:55 10 children.

11 As Muslims, even in war, we don't do that. So if you
12 are truly the caliphate that you said that you are, then you
13 will not do that.

14 Q. Now, you mentioned -- I'm going to go back to before
04:28:09 15 you -- and I'm -- I may not have the time frame right, so
16 correct me if I'm wrong.

17 And you thought Sharia law was the way. I think you
18 said that, at one point in time, you thought Sharia law was
19 the way.

04:28:24 20 Did you say that in direct examination?

21 A. I don't think so.

22 Q. Did you mention Sharia law in direct examination?

23 A. What is direct examination?

24 Q. Answering the prosecutor's questions.

04:28:35 25 A. No, I didn't.

1 Q. Do you know what Sharia law is?

2 A. I absolutely do.

3 Q. What is Sharia law?

4 A. Sharia law is the divine law from God.

04:28:46 5 Q. Is that radical or not radical or just the true
6 meaning of Islam, in your opinion?

7 A. In my belief as a Muslim, Sharia law is the law that
8 is handed down in the Koran by God.

9 Q. Is it, in your opinion, in any way advocate violence?

04:29:05 10 A. No.

11 Q. And is it your opinion that, in fact, it's peaceful?

12 A. If followed correctly?

13 Q. Yes.

14 A. It can be misinterpreted by those that are in power.

04:29:18 15 Q. But at this point, your belief is that this is -- it's
16 a religion of piece, correct?

17 A. Islam?

18 Q. Yes?

19 A. I believe Islam to be a religion of submission.

04:29:28 20 Q. To a law?

21 A. Yes.

22 Q. But in general there's nothing inherently violent
23 about Islam; is that correct?

24 A. No, I can't say that. If a Muslim country is met with
04:29:39 25 violence, they may respond in kind. Same thing with

1 America. Is that true?

2 THE COURT: I'm not allowed to answer questions.

3 THE WITNESS: I'm sorry.

4 BY MR. DOUGHTEN:

04:29:56 5 Q. Now, you indicated at the time when you were
6 retweeting on Twitter and you were exchanging view points
7 with many followers, you were just retweeting what was
8 interesting to you to other people, correct?

9 A. So to speak.

04:30:09 10 Q. And what does retweet mean, explain this process?

11 A. Retweeting is to -- let's say you tweet something and
12 I agree with it. I like it and then I take your message and
13 retweet it again in my name.

14 Q. Okay. And so at some point in time, you say this Abu
04:30:30 15 Harb contacted you, correct?

16 A. Yes.

17 Q. Now, in any of your conversations with Abu Harb, at
18 any time did this Abu Harb character advocate any particular
19 illegal act should be done?

04:30:48 20 A. I would say yes.

21 Q. Okay. What was that?

22 A. I would say he said he was a recruiter. So if I'm to
23 give him the names of other brothers or meet.

24 Q. But he didn't say recruit for what. Didn't you
04:31:16 25 indicate?

1 MR. SHEPHERD: Objection, Your Honor.

2 THE COURT: It's overruled.

3 MR. SHEPHERD: The witness can't answer the
4 question.

04:31:21 5 THE COURT: Just one at a time.

6 THE WITNESS: Am I going to fast?

7 THE COURT: No. No. Go ahead. Respond to the
8 question, sir.

9 THE WITNESS: He did not say he was a recruiter
04:31:28 10 for ISIS.

11 BY MR. DOUGHTEN:

12 Q. That was your interpretation, correct?

13 A. Yep.

14 Q. And when you moved over, just so it's clear, he moved
04:31:40 15 you over to Chat Secure, correct?

16 A. Um-hum.

17 Q. And so there's no record of anything that was said in
18 Chat Secure, correct?

19 A. I have no idea.

04:31:49 20 Q. Well, you can't keep any record of the conversation,
21 correct?

22 A. No.

23 Q. Has anyone ever shown you any transcription of any
24 conversation you had with Abu Harb?

04:32:00 25 A. No.

1 Q. So all we have to go on as far as accuracy is what
2 you're telling the jury here today, correct?

3 A. Yes.

4 Q. Okay. And so at some point in time you were arrested
04:32:14 5 for very serious charges, correct?

6 A. Yes.

7 Q. In fact, similar charges to what we're here today for,
8 correct?

9 A. Yes.

04:32:20 10 Q. And at that point in time, you came in and sat down
11 with the government and talked with them, correct?

12 A. Yes.

13 Q. And it was indicated to you that, "Look, if you tell
14 us what you know, we can do you some good," correct?

04:32:38 15 A. So to speak.

16 Q. Okay. And you were working with your lawyer, correct?

17 A. Yes.

18 Q. Now, anything you provided them was word of mouth
19 other than your accounts, correct?

04:32:56 20 A. No. They had proof of what I said to the guy --

21 Q. I'm sorry. Finish.

22 A. In Baltimore about the conversation.

23 Q. But any of your conversation not on Twitter with Abu
24 Harb, that's just coming from you? That's just you telling
04:33:16 25 them what you remember the conversation?

1 A. I suppose so, yes.

2 Q. About how many times would you say that you had
3 conversations with Abu Harb?

4 A. I had one conversation with Abu Harb.

04:33:27 5 Q. On Chat Secure?

6 A. Yes.

7 Q. How many days, how many occasions did you actually sit
8 and chat with Abu Harb?

9 A. I had one conversation with Abu Harb.

04:33:40 10 Q. Okay. And at some point in time, Abu Harb indicated
11 to you that somebody was setting up innocent people?

12 A. He said that the Kuffar set up innocent people.

13 Q. And the Kuffar refers to nonbelievers, correct?

14 A. Yes.

04:34:03 15 Q. And was he inferring directly about the FBI? Or what
16 was your opinion about who he was referring to?

17 A. The Kuffar is a general term. It can be the FBI. It
18 can also be my mother.

19 Q. Well, when he indicated -- I shouldn't say he. When
04:34:22 20 Abu Harb indicated to you that Muslims were being set up,
21 what was your interpretation of that?

22 A. I mean, I believed it.

23 Q. By whom? Who did you believe that he was referring
24 were setting people up?

04:34:36 25 A. Oh, the government.

1 Q. Okay. Now, you never saw sham_reason or Abu Harb.
2 You never saw this person in person, correct?

3 A. No.

4 Q. You personally have no idea who that American may be?

04:34:55 5 A. No idea.

6 Q. But you believe that this person was American because
7 instead of using mujahideen, he used jihadi, and that was
8 the expression used on American newscasts?

9 A. I believe he was either a person from the west or the
04:35:18 10 real deal. You know what I mean? He would have been the
11 real deal, a real recruiter in the west. Or I believed him
12 to be an FBI agent. It could be either/or.

13 MR. DOUGHTEN: One second, Your Honor.

14 THE COURT: Yes, you may.

04:35:42 15 BY MR. DOUGHTEN:

16 Q. Now, when you were answering questions with the
17 prosecutor, they showed you a list of people -- excuse me, a
18 list of accounts, one of which was sham_reason, that were
19 followers of you on Twitter.

04:35:58 20 Do you remember that?

21 A. Yes.

22 Q. And they also showed you a list of people you were
23 following, correct?

24 A. I don't believe he said that.

04:36:07 25 Q. I'm asking you. Were you following people on Twitter?

1 A. Yes.

2 Q. Were many of those people espousing support for ISIS?

3 A. Yes.

4 Q. And the people that were contacting you weren't some

04:36:20 5 of those people espousing support for ISIS?

6 A. Who was contacting me.

7 Q. The there were a list of accounts --

8 A. You mean people that were following me?

9 Q. Yes.

04:36:34 10 A. Yes.

11 Q. So Abu Harb wasn't that different from many other

12 people. The only different with him was he wanted to meet

13 you, correct?

14 A. Yes.

04:36:43 15 Q. That made you nervous?

16 A. Yes.

17 Q. Because it was bad either way. Either it's ISIS or

18 it's the FBI?

19 A. Yes.

04:36:48 20 Q. Now, why was it bad if it was ISIS, because you were a
21 supporter of theirs at that time?

22 A. Yes, but not really.

23 Q. Okay. So this was more venting your anger than what
24 you really meant?

04:37:02 25 A. Yes.

1 Q. And you indicated that this person, Abu Harb, had
2 said -- or I want to get this straight.

3 Did you indicate to Abu Harb that ISIS was in Texas,
4 or did he indicate to you that ISIS was in Texas?

04:37:24 5 A. He indicated to me that he had brothers in Texas. He
6 never used the term "ISIS."

7 Q. He just said brothers?

8 A. Yes.

9 Q. And, again, he didn't say, "I had radicals"?

04:37:33 10 A. No.

11 Q. "I had people breaking the law"?

12 A. No, of course not.

13 Q. And, in fact, he said, whoever, or she, that there's
14 nothing illegal about what we're doing, correct?

04:37:41 15 A. I don't remember saying that.

16 Q. Okay. You said that he said that he -- was there
17 anything in your conversations in the exhibits indicating
18 that "They're trying to set us up. We're not doing anything
19 wrong"?

04:38:00 20 A. He said that they set up innocent people, people that
21 aren't doing anything wrong.

22 Q. Okay. And at no time in these conversations with Abu
23 Harb -- and we're giving him a real name -- the only thing
24 that he said or she said that might be illegal was
04:38:19 25 recruiting, and you interpreted that word to mean ISIS, even

1 though ISIS was never said, correct?

2 A. Yes.

3 Q. Now, you indicated that you're here to atone?

4 A. Yes.

04:38:30 5 Q. But let me ask you this:

6 If you weren't offered the plea agreement, would you
7 still be sitting here today?

8 A. Yes.

9 Q. So if the government would have said, "Look, we would
04:38:38 10 like you to come in and testify on our behalf," you would do
11 it even if you had no agreement?

12 A. Yes.

13 Q. And isn't it fair to say that without -- without
14 getting in specifics, that the agreement as it is, provides
04:38:57 15 you with a basically half the sentence you could have
16 received otherwise?

17 A. That's what they say.

18 Q. Okay. And isn't there also something in that
19 agreement that if the Judge doesn't accept the 16 years,
04:39:11 20 that you have an option to withdraw from the plea?

21 A. I don't know. I think so.

22 Q. Okay.

23 A. I'm not --

24 Q. You don't remember what the actual words are?

04:39:24 25 A. I'm not positively succinctly sure.

1 Q. And do you know what a Rule 35 is?

2 A. No.

3 Q. Does your agreement include a Rule 35 provision?

4 A. I'm not sure.

04:39:55 5 MR. DOUGHTEN: Your Honor, can I have one moment?

6 THE COURT: Yes.

7 THE WITNESS: Is that something that I should
8 know?

9 THE COURT: Your attorney will discuss it with
04:40:10 10 you. Yes, it's something you should know about. You should
11 talk to your lawyer about that.

12 BY MR. DOUGHTEN:

13 Q. Back to that, you indicate you were afraid of Abu
14 Harb. Is that right?

04:40:56 15 A. Yep.

16 Q. If that's the case, why did you refer him to your
17 brother in Baltimore?

18 A. Really, honestly, to get the heat off of me.

19 Q. And did you say "brother" or "brothers" when referring
04:41:07 20 to people in Baltimore?

21 A. Brother, single.

22 Q. So you only communicated one person in Baltimore?

23 A. Yes.

24 Q. Okay. Thank you.

04:41:16 25 MR. DOUGHTEN: One second.

1 THE COURT: Any redirect of this witness?

2 MR. DOUGHTEN: Wait. I'm sorry.

3 THE COURT: I'm sorry. Just one moment.

4 BY MR. DOUGHTEN:

04:41:23 5 Q. Your Honor, could I approach the witness with a --

6 THE COURT: Yes, you may.

7 Is it something the government has seen or has a copy
8 of? Just make sure the government has seen it.

9 Counsel, why don't you approach the sidebar real
04:42:02 10 quick.

11 (Discussion at sidebar as follows:)

12 THE COURT: I don't want to interject myself into
13 this, but you can cross-examine on this. You're certainly
14 free to do this. Do you want to give him a chance to read
04:42:23 15 it?

16 MR. DOUGHTEN: I want to give him a chance to
17 read it. I think it's the same exhibit the government has.

18 THE COURT: Do you want to take a break and let
19 him read it? He looked at me and said, "Gee, is this
04:42:33 20 something I should know about?

21 MR. SHEPHERD: And his attorney is in the back.

22 THE COURT: Oh, Mr. Whitney.

23 MR. SHEPHERD: Yeah, Mr. Whitney is his lawyer
24 and I do believe he has explained this to him.

04:42:46 25 MR. DOUGHTEN: Why don't we take a break and let

1 him read it.

2 THE COURT: I think that's fair. I'm going to
3 excuse the jury and I'm going to tell Mr. Whitney to come
4 back and review the plea agreement with his client again.

04:42:57 5 MR. SHEPHERD: Yes, Your Honor.

6 (The following proceedings were had in the hearing of
7 the Jury:)

8 THE COURT: Ladies and gentlemen of the jury,
9 we're going to take a break. I have a couple of issues to
04:43:05 10 discuss with the attorneys. So please, no inference, just
11 procedural issues that we have to clear up.

12 So, please leave your notepads on your chairs.
13 Remember all admonitions I've just given you about not
14 discussing the case among yourselves or with anyone else.

04:43:20 15 We'll take about 20 minutes, and then we'll reconvene
16 hopefully for the balance of the day. And I'll try to do
17 something -- is it a little warm for all of you.

18 JURORS: No.

19 THE COURT: It's fine? Then it's me.

04:43:33 20 Thank you very much. We appreciate your courtesy.

21 (Jury out, 1:55 p.m.)

22 THE COURT: Counsel, just as we discussed at
23 sidebar, Mr. Al-Ghazi, in fairness to you, your attorney is
24 present. We're going to ask your attorney to go over with
04:44:15 25 you -- we'll give him and you a copy of your plea agreement

1 and we'll let your attorney speak to you. Make sure you're
2 fully informed about the nature of your plea agreement, all
3 the details of same.

4 Otherwise, you're going to be getting asked questions
04:44:27 5 about it. And I think in fairness to you, you have -- it
6 would be perhaps better that you be fully educated about it.

7 All right?

8 THE WITNESS: Okay.

9 THE COURT: All right.

04:44:40 10 DEPUTY U.S. MARSHAL: Staying here?

11 THE COURT: No, let him go refresh himself if
12 need be. Let Mr. Whitney meet with him and then we'll go
13 from there.

14 Thank you very much. Would you prefer to stay here?
04:44:54 15 I mean, I could use the -- potentially use the jury room,
16 but I'm -- not the jury room, potentially use the conference
17 room, but I don't logistically -- why don't you take some
18 time with him.

19 All right.

04:45:06 20 All right, Counsel. We'll allow Mr. Al-Ghazi to meet
21 with his attorney, go over the plea agreement. Then we'll
22 resume the balance of his cross-examination and any redirect
23 that you might have.

24 What's the government -- do we have another witness
04:45:25 25 today?

1 MS. MAGNONE: Yes, Your Honor.

2 THE COURT: Lengthy, short.

3 MS. MAGNONE: We have one that's lengthy and two
4 that can be short.

04:45:34 5 THE COURT: Are you going to use the short ones
6 or the long one.

7 MR. SHEPHERD: So, Your Honor, our plan had been
8 to do the long one then the short ones. However, based on
9 the timing -- we would like to discuss it. There's some
04:45:49 10 travel implications that we would like to discuss.

11 THE COURT: Discuss it. We're going to go to
12 4:30. No later than 4:30. I have an arraignment at 4:30?

13 MR. SHEPHERD: Yes, Your Honor.

14 THE COURT: So thank you very much. That's how
04:46:02 15 we'll proceed.

16 (Recess taken, 1:55 p.m.)

17 (Jury in, 2:20 p.m.)

18 THE COURT: Counsel, you may resume your
19 cross-examination.

05:10:32 20 MR. DOUGHTEN: Thank you, Your Honor.

21 BY MR. DOUGHTEN:

22 Q. I just have a couple more things, Mr. Al-Ghazi.

23 During the break, you've had time to kind of think about
24 what a Rule 35 was?

05:10:41 25 A. Sure.

1 Q. What was your understanding of that?

2 A. My understand of a Rule 35 is after -- the prosecution
3 or the government has an opportunity, or a chance to talk to
4 the judge after a year to get more time off, I believe.

05:10:55 5 Q. Based on your cooperation, correct?

6 A. Right.

7 Q. Okay. So basically the -- you're going to get quite a
8 benefit for assisting the government, correct?

9 A. I hope so.

05:11:05 10 Q. Hopefully. Hopefully.

11 And it's your understanding that in order to do so,
12 you're required under the agreement to tell the truth,
13 correct?

14 A. Absolutely.

05:11:14 15 Q. Who determines what the truth is? It's the
16 government, isn't it?

17 MR. SHEPHERD: Objection, Your Honor.

18 BY MR. DOUGHTEN:

19 Q. In this instance?

05:11:25 20 THE COURT: Ladies and gentlemen -- go ahead and
21 answer the question. I'll give you some further explanation
22 and instructions as we go along. Go ahead, Counsel.

23 THE WITNESS: I believe the truth is determined
24 by evidence and corroboration that the government has.

05:11:38 25 BY MR. DOUGHTEN:

1 Q. But ultimately whether the government moves for the
2 departure, moves for you to get less time is based upon
3 whether they believe you're being honest with them, correct?

4 A. In accordance with evidence and corroboration.

05:11:52 5 Q. Okay. And, again, you never met Abu Harb, correct?

6 A. No.

7 Q. And you've never met Erick Hendricks until today,
8 correct -- or you didn't meet him but you've never seen him
9 until today, correct?

05:12:07 10 A. I've seen him.

11 Q. Prior to recently you never saw Erick Hendricks,
12 right?

13 A. If your asking me if I know that he's Abu Harb, I have
14 no idea who Abu Harb is.

05:12:20 15 Q. Okay. That's good. Thank you very much.

16 THE COURT: Counsel any redirect?

17 MR. SHEPHERD: Yes, Your Honor.

18 REDIRECT EXAMINATION OF AMIR AL-GHAZI

19 BY MR. SHEPHERD:

05:12:40 20 Q. Mr. Al-Ghazi, I just want to follow up on a few
21 questions that you were asked by Mr. Doughten. Okay?

22 A. Yes.

23 Q. First, sir, how old are you?

24 A. I'm currently 41 years old.

05:12:52 25 Q. And under the terms of your plea agreement, if you

1 fully cooperate, how much time is it that you would serve,
2 if the Judge follows the plea agreement?

3 A. Sixteen years.

4 Q. Sir, your you were also asked if Abu Harb, in the
05:13:09 5 conversation, had talked about any illegal activity.

6 Do you remember that question?

7 A. Yes.

8 Q. Did he -- I think earlier -- is it correct that he did
9 talk to you about waging jihad on the Kuffar? Is that what
05:13:25 10 you previously stated?

11 A. Yes. Excuse me. Yes.

12 Q. So what do you take wage jihad on the Kuffar to mean?
13 At that time?

14 A. At that time, I take wage jihad on the Kuffar would be
05:13:39 15 to struggle against the Kuffar, which could probably involve
16 violence.

17 Q. And during these conversations, did he also talk to
18 you about military training?

19 A. Yes. He asked me if I had training. So what am I
05:13:51 20 training for if it's not -- you know, why ask me for
21 training if it's not to train for something.

22 Q. And, sir, under the terms of your plea agreement, you
23 were just asked about this Rule 35 request the government
24 could make.

05:14:10 25 Have you been promised that the government will make

1 such a request?

2 A. No.

3 Q. Does your plea agreement include a promise that the
4 government will make such a request?

05:14:19 5 A. No.

6 MR. SHEPHERD: Your Honor, I have no further
7 questions.

8 THE COURT: Thank you. May I see the plea
9 agreement, please?

05:14:39 10 MR. SHEPHERD: Yes, Your Honor.

11 (Pause.)

12 THE COURT: Ladies and gentlemen, I think I will
13 provide you some background information that may be helpful
14 in understanding the issues regarding the defendant's plea
05:15:36 15 agreement.

16 The defendant has entered into a written plea
17 agreement with the government. The government and the
18 defendant -- this is not unusual -- have negotiated the
19 agreement. It's in writing. The agreement calls for a
05:15:50 20 specific sentence.

21 However, the agreement also calls, contains a
22 provision for what is so-called substantial assistance
23 and/or cooperation. The nature of that type of provision is
24 that if the defendant, in this case Mr. Al-Ghazi, testifies,
05:16:09 25 provides the government with information, testifies

1 truthfully at trial and assists the government, then the
2 government may make a motion asking that this defendant
3 receive a reduced sentence.

4 The government must make the formal request, however.

05:16:26 5 Additionally, the agreement contains a provision
6 called a Rule 35(a). Rule 35(a) is a rule of criminal
7 procedure that allows the government, within one year after
8 the defendant has been sentenced, to seek a further
9 reduction.

05:16:46 10 These matters are subject to the discretion of a
11 Judge, whether or not to grant the request for substantial
12 assistance, whether to grant the Rule 35, is subject to the
13 discretion of a judge.

14 However, in fairness, you should be made aware the
05:17:02 15 government must make the request. The government must make
16 a formal motion or request for the defendant to receive the
17 benefit of either substantial assistance or the Rule 35.

18 This defendant does not know what type of sentence he
19 will receive yet. He has not yet been sentenced.

05:17:20 20 I offer that to you only by way of background. You
21 rely upon the testimony, of course, and there may be further
22 instructions regarding the nature of the agreement at the
23 time we provide you instructions of law.

24 Thank you.

05:17:33 25 Any other questions of this witness, please?

1 MR. SHEPHERD: Not from the United States, Your
2 Honor.

3 MR. DOUGHTEN: We're fine, Your Honor. Thank
4 you.

05:17:39 5 THE COURT: Thank you.

6 Mr. Al-Ghazi, you're excused.

7 Thank you very much, sir.

8 THE WITNESS: Thank you.

9 THE COURT: Good luck to you, sir.

05:17:47 10 THE WITNESS: Thank you. Have a great day.

11 THE COURT: Counsel, does the government have
12 another witness, please?

13 MR. SHEPHERD: We do Your Honor. The government
14 calls Janet Lynn Miller.

05:18:13 15 THE COURT: All right. Just one moment.

16 Ms. Miller, if you would just approach the witness
17 stand, please, and remain standing for me.

18 JANET LYNN MILLER,

19 of lawful age, a witness called by the United States,

05:18:48 20 being first duly placed under oath, was examined

21 and testified as follows:

22 THE COURT: Please be seated. Be careful.

23 THE WITNESS: Thank you.

24 THE COURT: There's a couple steps there. Take
05:19:09 25 your time.

1 Are you ready?

2 THE WITNESS: Yes, sir.

3 THE COURT: All right. Thank you.

4 Just a couple brief instructions. Please wait until
05:19:18 5 the attorneys complete their questions before you begin to
6 respond. The court reporters here have to take down,
7 transcribe what you're saying. It's difficult for them when
8 two individuals are speaking at the same time.

9 Also, if there is an objection to any question, do not
05:19:33 10 answer the question until I rule on the objection. Of
11 course, if I say sustained, you'll not answer the question.

12 You'll need to respond verbally, not through nods,
13 shakes of the head, things of that nature to all the
14 questions.

05:19:47 15 THE WITNESS: I'm sorry, didn't understand.

16 THE COURT: I'm sorry, you'll have to speak
17 verbally, respond to the questions verbally, not through
18 shaking your heads or nods or things of that nature.

19 THE WITNESS: Okay.

05:19:59 20 THE COURT: All right. Thank you very much.

21 Counsel, you may proceed.

22 MR. SHEPHERD: Thank you, Your Honor.

23 DIRECT EXAMINATION OF JANET LYNN MILLER

24 BY MR. SHEPHERD:

05:20:03 25 Q. Would you please state your name?

1 A. Janet Lynn Miller.

2 Q. And ma'am, where do you currently live, what city and
3 state?

4 A. Colombia, South Carolina.

05:20:13 5 Q. And, ma'am, are you a practicing Muslim?

6 A. Yes, I am.

7 Q. For how long?

8 A. Twenty-four years.

9 Q. And, ma'am, could you please explain for the jury your
05:20:23 10 dress today?

11 A. It's traditional Islamic wear. And I chose to
12 practice my religion wearing this.

13 Q. Is that something you've done all your life?

14 A. I took off after 9/11. I took my veil off and I put
05:20:41 15 it back on last year, but, otherwise, it's the same dress
16 almost every day.

17 Q. Is there a reason you decided to put your veil on
18 again last year?

19 A. Because I could. Because I was in a situation where I
05:20:55 20 no longer had to deal with the public day-to-day. I do most
21 of my work on the phone. And Lynn Miller is a -- sound
22 pretty Baptist, and people don't expect me when they meet
23 me. So since I don't have to work in the public, I felt
24 like I could practice my religion the way I'm most
05:21:14 25 comfortable with.

1 Q. And is your dress today of your own choosing?

2 A. Oh, yes, sir.

3 Q. Has anyone asked you to dress that way?

4 A. No, sir.

05:21:23 5 Q. And what do you do for a living currently?

6 A. I'm a headhunter, which means I recruit for warehouse
7 managers, plant managers, I even, when I came to Columbia, I
8 was doing nurses.

9 Q. And do you have any other jobs that you do as well in
05:21:47 10 Columbia?

11 A. I manage a home for a 91-year-old brother that, and
12 his 86-year-old wife. I pay their bills and have 24-hour
13 care. I do that. And I also work with the refugees.

14 Q. Refugees from where?

05:22:05 15 A. All over the country -- I'm sorry, world,
16 Afghanistan, Iraq, Iran, Syria.

17 Q. Where are you originally from?

18 A. Orlando, Florida.

19 Q. And, again, how many years ago did you become a
05:22:17 20 Muslim?

21 A. Twenty-four.

22 Q. Besides living in Columbia, where did you live before
23 moving to Columbia?

24 A. Baltimore.

05:22:31 25 Q. And approximately how long did you live in Baltimore?

1 A. One year.

2 Q. Do you know a person named Erick Hendricks?

3 A. Yes.

4 Q. Are there any other names that you know him by?

05:22:45 5 A. Abu Merriam and Mustafa.

6 Q. How is it that you know him?

7 A. I met him through a friend and one of his wives.

8 Q. And how long have you known him?

9 A. I met him -- I think it was the beginning of March of
05:23:02 10 2015 -- 2016 or 2015.

11 Q. And have you seen him since that time?

12 A. Around a masjid in Columbia, South Carolina.

13 Q. And what is a masjid?

14 A. That's where we worship, like a church.

05:23:19 15 Q. Did you attend the same masjid as him then?

16 A. Yes. I was been going in and out of Columbia for 12
17 studying under a sheikh.

18 Q. And is he the person in charge of the masjid?

19 A. The imam, like the pastor.

05:23:35 20 Q. I would like to ask you whether you see Mr. Hendricks
21 in the courtroom today?

22 A. Yes, he is behind you. I've never seen him dressed
23 like that, but that's him.

24 MR. DOUGHTEN: Your Honor, we'll stipulate to the
05:23:46 25 identification.

1 THE COURT: We'll note the stipulation and the
2 identification as well.

3 BY MR. SHEPHERD:

4 Q. Now, Ms. Miller, I want to take you back to the first
05:23:52 5 time you met Mr. Hendricks.

6 Where was that?

7 A. At my home in Baltimore. It was -- it's a three-level
8 house. And I lived in the middle section along with my
9 daughter. And on the top floor was my friend that had moved
05:24:09 10 there from Columbia, Jenny.

11 Q. And was that on March 19, 2015?

12 A. Approximately.

13 Q. And what were the circumstances of meeting Mr.
14 Hendricks?

05:24:20 15 A. My friend called me on the phone and said, "I want you
16 to meet a friend of my from Columbia." So I went upstairs
17 to meet her. She was very nice. We started talking. And
18 then she left. I don't know how detailed -- the whole
19 thing.

05:24:40 20 Q. I want to back up a minute.

21 So, again, who was your friend?

22 A. Jenny.

23 Q. And what was her last name?

24 A. Sepulveda.

05:24:48 25 Q. And she lived in the same building?

1 THE WITNESS: Yes, same.

2 THE COURT: Can you spell the last name for us?

3 THE WITNESS: I wish I could. I apologize.

4 THE COURT: I'm just trying to help our court

05:25:01 5 reporters.

6 THE WITNESS: I'm sorry.

7 THE COURT: That's fine.

8 BY MR. SHEPHERD:

9 Q. So if I understood you right, was she an acquaintance
05:25:09 10 of Mr. Hendricks?

11 A. She was one of his wives for a few days.

12 Q. What do you mean by that?

13 A. They married and it ended like after three days.

14 Q. And is that an Islamic concept?

05:25:21 15 A. Absolutely not. No. Marriages are very serious and
16 divorce is very tough. It takes like three months to end a
17 marriage and you're supposed to have counseling and
18 guidance. It's very odd to have married the way that they
19 married and ended it.

05:25:39 20 Q. And after this happened, is that when you met Mr.
21 Hendricks?

22 A. Yes.

23 Q. What happened -- first who attended this meeting with
24 Mr. Hendricks?

05:25:51 25 A. It was his other wife, Aaminah, it was Erick, it was

1 Jamillah, but Jenny's Muslim name is Jamillah and myself.

2 Q. And when you say Aaminah, can you spell that?

3 A. No. Sorry. It's something that's translated and so
4 everyone spells it differently.

05:26:11 5 Q. And was Aaminah her only name that you can knew her
6 by?

7 A. That's all I knew her by. That's the only name I knew
8 her by. But she has an American name.

9 Q. Do you know of any -- or have you met any other wives
05:26:28 10 of Mr. Hendricks?

11 A. Yes, he's got currently two wives, another Aaminah in
12 South Carolina.

13 Q. And do you know the other Aaminah's, I guess, American
14 name?

05:26:40 15 A. No, I don't. We don't really -- no. I'm Lynn. I'm
16 Lynn everywhere I go. But some Muslims are, if they're in
17 the masjid they go by one name and if they are at work, they
18 go by their legal name. I don't ever see that, though.

19 Q. So who arranged for this meeting in Baltimore?

05:27:00 20 A. You know, it's really strange. It was very unexpected
21 when Aaminah called Jamillah, I guess, and they called me up
22 there. And then Aaminah arranged the meeting for me to meet
23 Mustafa, which is very unusual.

24 Q. Why is that unusual?

05:27:17 25 A. Well, men and women don't sit together normally.

1 Q. Is that something that you take as a part of your
2 faith?

3 A. Yes, separation.

05:27:32

4 Q. Ms. Miller, what happened during this meeting with Mr.
5 Hendricks or Mustafa?

6 A. When his wife was with Jamillah and I before he came,
7 we were talking about the Khalifa, and the Islamic State,
8 Twitter, Facebook, different methods of being able to
9 communicate that can't be tracked.

05:27:52

10 And I -- and she left, and I thought that was odd, you
11 know.

12 Then I get this call, I need you to meet my
13 husband -- excuse me. She didn't call me. Jenny called me
14 and said they wanted me to meet Mustafa, which I thought was
15 odd. And I cooked dinner, and they came over.

05:28:07

16 Q. And then what happened during the actual dinner where
17 Mr. Hendricks was there?

18 A. He talked about how we needed to prepare as Muslims
19 for the time that nonbelievers would pick us up and harm us,
20 that they were going to have land that we could all live on
21 to prepare for the pick up.

05:28:25

22 He was very interested in my contacts with overseas
23 people and he wanted to meet some of them.

24 Q. Did he discuss anything about weapons?

05:28:41

25 A. Yes. We had to be trained. We had to protect

1 ourselves.

2 Q. And what kind of training was he talking about?

3 A. Guns.

4 Q. Did he indicate whether he already had land?

05:28:54 5 A. He did. He said he already had the land.

6 At one point I was told it was done and the camp was
7 ready.

8 Q. Did he talk about getting more land as well?

9 A. Yes. He was out scouting land.

05:29:07 10 Q. Did he mention anything about ISIS or the Islamic
11 State during this meeting?

12 A. Well, of course, it was a large conversation about the
13 Islamic State, about the Khalifa, about our responsibility
14 as Muslims to, you know, protect each other.

05:29:23 15 Q. Did he express any opinions about the Islamic State?

16 A. He definitely did. He supported the Islamic State.

17 Q. Now, at that time, were you a supporter of the Islamic
18 State?

19 A. He would talk to me and believe I was, yes.

05:29:37 20 Q. What do you mean by that?

21 A. I support the establishment of caliphate, not the way
22 it's been established or how it's being established. I
23 support Islamic society overseas, certainly not here, and
24 the ability to make a choice to go there or not.

05:29:55 25 But many people think I'm an IS supporter. I'm not an

1 IS supporter. I just support the dream of an Islamic
2 country.

3 Q. You've used a couple terms I believe, Khalifa or
4 Khalifa. What does that mean?

05:30:13 5 A. It's where you have a Muslim lead the country based on
6 Islamic law.

7 Q. And is that something you support?

8 A. Of course I do, but without the violence.

9 Q. I was just going to ask you, what about the Islamic
05:30:27 10 State makes you say that's not what you support?

11 A. The killing of innocents, the killing of innocents.

12 Q. And during this conversation, what was the
13 defendant -- I'm sorry, Mr. Hendricks saying about the
14 Islamic State?

05:30:43 15 A. That he wanted to meet more people like me and he
16 wanted to -- he asked me -- I have to apologize. It was a
17 text, so I don't know who sent the text. It came from his
18 wife's phone. They had people -- they wanted me to set up
19 meetings with like-minded people.

05:31:01 20 Q. Did he talk at all about recruiting?

21 A. Yeah.

22 Q. What did he say about recruiting?

23 A. Finding like-minded people so that he could talk with
24 them, go make sure they're all on the same team, and bring
05:31:15 25 them out to the facility -- sorry, I'm nervous.

1 Q. And that's okay, Ms. Miller.

2 If you could just try to slow down a little as you
3 talk. That's okay.

4 And, Ms. Miller, during this conversation, did he
05:31:31 5 actually ask you about contact with anyone overseas?

6 A. Abu Haleema.

7 Q. And how is that?

8 A. Abu Haleema is -- at least what the U.K. says is a
9 hate preacher. And I've been in a lot of contact with him.

05:31:50 10 Also, he wanted to meet him because he is a straight guide
11 into the Islamic State. He'll introduce you to people
12 there. He'll help you get there. Currently he's in prison
13 in the U.K.

14 Q. During this meeting with Mr. Hendricks, what was your
05:32:08 15 reaction to all of this?

16 A. I wasn't quite sure. I thought, is he real?

17 But then I became fearful after the whole thing ended
18 and I went and I replayed it in my mind. These are probably
19 the most dangerous people, in my mind, is the ones that very
05:32:30 20 charismatic and seem to understand the Din. I knew he was
21 quoting things that incorrect because I study, but I found
22 him to be scary.

23 Q. Did you do anything because you were scared?

24 A. I don't understand.

05:32:45 25 Q. Excuse me. After this meeting, did you do anything as

1 a result of what Mr. Hendricks told you?

2 A. I still don't understand. I'm sorry.

3 Q. I'll rephrase.

4 After this meeting, did you contact anyone?

05:32:58 5 A. I did.

6 Q. About the meeting?

7 A. I did.

8 Q. Who did you contact?

9 A. The back story or the whole --

05:33:06 10 Q. Just immediately, who did you contact?

11 A. A contact I had in North Carolina with the FBI.

12 Q. Why did you do that?

13 A. Because I was afraid.

14 Q. And you said a back story. What was the -- I'll

05:33:21 15 rephrase.

16 Had you previously talked to this FBI agent in North
17 Carolina?

18 A. Yes. They came to my home because I ran a charity out
19 of Florida in Tampa called the Al-Ansar right at 9/11 when
05:33:37 20 it happened. It was a Syrian-based like most of our doctors
21 were Syrian and I raised money and I would put it out to
22 women that were alone, that couldn't pay their rent or
23 couldn't pay their light bill.

24 And they said they've been looking for me since like
05:33:51 25 9/11. So they found me like 2011.

1 Q. Were you charged were any crimes in relation to that?

2 A. No. No. But they had a lot of questions where money
3 went.

4 Q. And did you participate in this interview with the
05:34:02 5 FBI?

6 A. It took me -- took them five minutes to get in my
7 house. Then I was very cooperative.

8 Q. And did that have anything at all to do with Mr.
9 Hendricks?

05:34:11 10 A. No, it was just questioning about the Tampa charity.

11 Q. So then after you had this meeting with Mr. Hendricks,
12 you contacted the same agent, if I understood you earlier?

13 A. Yes.

14 Q. At that time, were you working for the FBI in any way?

05:34:29 15 A. No.

16 Q. Were you getting paid by the FBI in any way?

17 A. No.

18 Q. At a later time, did you indeed work for the FBI?

19 A. Yes.

05:34:39 20 Q. At some point after this meeting in this Baltimore,
21 did you move from Baltimore?

22 A. Yeah. In October, like 17th of the same year.

23 Q. And where did you move to?

24 A. Back to -- I moved to Columbia, South Carolina, where
05:34:57 25 my friend had moved up from, she moved back. And I moved

1 there to Columbia.

2 Q. And while you were in Columbia, were you working for
3 the FBI?

4 A. I do a -- yeah, um-hum.

05:35:10 5 Q. And were you paid?

6 A. Some, yes.

7 Q. Between approximately May of 2015 and the present,
8 have you received a little over \$89,000?

9 A. I couldn't tell. If that's what you say. I don't
05:35:28 10 have any money, so, if you paid me that, that must have been
11 what you paid me.

12 Q. When you say you couldn't tell, you don't have any
13 money, what do you mean by that?

14 A. I don't have any money. I would have hoped I would
05:35:38 15 have saved some, but -- I did put my money back into
16 community so I don't know what I've been paid. But if you
17 say that, it must be right.

18 Q. Ms. Miller, at the time you had this meeting and
19 called the FBI about Mr. Hendricks, what were your
05:35:59 20 expectations about what would happen?

21 A. That -- I didn't think anymore with me. I thought
22 that somebody would follow the information and hopefully
23 check him out to see if he was as threatening as I felt he
24 was.

05:36:16 25 Q. Did you have any expectation that you would be paid at

1 that time?

2 A. No, I didn't even know that existed.

3 Q. Did you later receive any money specifically because
4 of what you reported on this meeting in Baltimore?

05:36:30 5 A. I don't think so. I think it was like the whole
6 everything I do.

7 MR. SHEPHERD: Your Honor, may I have one moment,
8 please?

9 THE COURT: You may.

05:37:11 10 BY MR. SHEPHERD:

11 Q. Ms. Miller, you mentioned earlier that you're nervous?

12 A. I am.

13 Q. Why are you nervous today?

14 A. Just because there's a lot of people here. And I just
05:37:21 15 haven't talked in a large group in a long time.

16 Q. Is this something you enjoy doing?

17 A. I enjoy sharing and teaching, but on a smaller scale.

18 MR. SHEPHERD: Your Honor, I have no further
19 questions.

05:37:37 20 THE COURT: Thank you.

21 Counsel.

22 MR. SHEPHERD: Your Honor, can we approach?

23 THE COURT: Yes.

24 (Discussion at sidebar as follows:)

05:38:05 25 MR. HARTMAN: Judge, this witness has a prior

1 criminal record. She has a felony conviction that is more
2 than ten years old. However, I think under Rule 609 it's
3 more probative than prejudicial, and supported by facts and
4 circumstances being that it happened after she converted to
05:38:26 5 being Muslim, she was charged and convicted of grand theft.

6 I would like to inquire about that. The government
7 objects. We thought we would bring it to you before we
8 started just so I didn't have to ask the question.

9 THE COURT: What's the basis of the objection?

05:38:38 10 MR. SHEPHERD: Your Honor, it's a conviction for
11 grand theft, and although, a felony, from 1995, it's --
12 under Rule 609, it's outside the ten-year window and we
13 believe a conviction this remote in time, now over 22 years
14 ago, is too remote in time to have the probative value
05:38:58 15 outweigh the prejudicial value of an inquiry into a felony
16 conviction.

17 THE COURT: What is the probative value?

18 MR. HARTMAN: Judge, I think it's probative of
19 the fact that it was after she converted to be a Muslim.
05:39:11 20 She still wasn't living a life according to the beliefs that
21 she is espousing.

22 THE COURT: Well, it's a close question. I think
23 given the nature of the case and the issues involved, I'll
24 allow the question.

05:39:29 25 Again, it's a close question, but I'll allow.

1 MR. SHEPHERD: Yes, Your Honor.

2 MR. HARTMAN: Thank you.

3 (The following proceedings were had in the hearing of
4 the Jury:)

05:39:43 5 CROSS-EXAMINATION OF JANET LYNN MILLER

6 BY MR. HARTMAN:

7 Q. Good afternoon.

8 A. Good afternoon.

9 Q. You're a convicted felon, correct?

05:39:50 10 A. I am, yes.

11 Q. What was that conviction for?

12 A. I write bad checks, 20 some years ago.

13 Q. After you converted to Muslim, correct?

14 A. No, the checks were before.

05:40:02 15 Q. I thought you said you converted 24 years ago?

16 A. I did. I was charged after I was Muslim. They
17 weren't written as a Muslim.

18 Q. Okay. And now you get paid by the FBI?

19 A. I do a lot of things, but yes, I have received payment
05:40:21 20 if the FBI.

21 Q. And that started in May of 2015, correct?

22 A. I thought the first payment was October of 2015.

23 MR. SHEPHERD: Your Honor, just discussing with
24 defense counsel, we'll stipulate that her payment began in
05:41:04 25 May of 2015 on this particular issue.

1 THE COURT: All right. We'll note the
2 stipulation. That's the agreement that, in fact, the
3 payments did begin in May of 2015.

4 All right. Thank you, Counsel.

05:41:14 5 Go ahead.

6 BY MR. HARTMAN:

7 Q. And, ma'am, isn't it a fact that when you first
8 contacted the FBI about your so-called concerns about Mr.
9 Hendricks was in May of 2015?

05:41:27 10 A. No, it wasn't. I called the day after he left the
11 house.

12 Q. Okay. When did you first have a formal interview with
13 the FBI?

14 A. I can't remember. I'm being honest. I can't
05:41:40 15 remember. Within a few days.

16 Q. You understand, don't you, as an informant, that if
17 you don't produce results you won't get paid as much?

18 A. No, I didn't know that. No.

19 Q. Do you understand that if you don't produce results,
05:42:01 20 you can actually be closed as a source?

21 A. I'm sure that's true. I never thought about it. But
22 it's not the reason I started this, was not money.

23 Q. But you would agree with me \$90,000 is a lot of money,
24 wouldn't you?

05:42:22 25 A. I would agree would you, I would agree with anybody on

1 that, yeah.

2 Q. Okay.

3 Now, earlier on direct examination you testified that
4 many people think you're an IS supporter?

05:42:44 5 A. Yes, they do.

6 Q. Why do they think that?

7 A. Because of the way I speak, because of the way I speak
8 and how -- you know, the sheikhs that I follow.

9 Q. Because of the things you say, you mean?

05:42:56 10 A. Well, and the lectures I listen to.

11 Q. Are they considered radical?

12 A. Yes.

13 Q. And would people -- prior to the time you ever met
14 Erick Hendricks, would it be true also then that people
05:43:10 15 would have thought you were an IS supporter?

16 A. Absolutely.

17 Q. And just to be clear, you support the establishment of
18 an Islamic State overseas?

19 A. Absolutely.

05:43:22 20 Q. Did you at any point before you were hired as an
21 informant for the FBI inform anyone that you were a
22 supporter of ISIS?

23 A. I don't remember being hired by the FBI. And I
24 would -- I got a phone call after the shootings in France by
05:43:49 25 one of the FBI agents that had come to my home. And I told

1 him I was up on Twitter and other sites and getting the real
2 news.

3 But I was not hired by the FBI.

4 Q. You were paid by the FBI?

05:44:03 5 A. I was -- I received payment, but none of -- months
6 after I was giving information.

7 Q. You were paid by the FBI, yes or no?

8 A. Yes. I said yes.

9 Q. Okay. So before the time that you started getting
05:44:14 10 paid by the FBI, did you ever tell anyone that you were a
11 supporter of ISIS?

12 A. Of course, I did. I told Erick.

13 Q. Did you ever use the social media platform called
14 Wickr?

05:44:37 15 A. Who? Wickr? No, I don't know Wickr. Twitter.

16 Q. Twitter?

17 A. Twitter.

18 Q. Did you ever use one called Surespot?

19 A. Did not using Surespot. Used Twitter, Facebook,
05:44:50 20 Telegram, Whatsapp.

21 Q. Now, in May of 2015, you got texts from my client
22 indicating to you to be careful of radicals and terrorists,
23 correct?

24 A. Yeah, um-hum.

05:45:11 25 Q. And he also stated to you that he wasn't a radical,

1 correct?

2 A. Yes, he did in that text, yes.

3 Q. And he stated to you in another text that he believed
4 Islam to be a peaceful religion, correct?

05:45:23 5 A. I think so, yes. Okay. But at this point, he thought
6 I was FBI?

7 MR. HARTMAN: I'm going to move to strike. There
8 was no question pending.

9 THE COURT: Yes. Disregard the answer, ladies
05:45:35 10 and gentlemen.

11 Ma'am, do not volunteer information not called for by
12 the question. Answer only the question that's been posed by
13 counsel, please.

14 Next question, please.

05:45:45 15 BY MR. HARTMAN:

16 Q. Didn't he also tell you that he had never taken an
17 oath of allegiance to ISIS or Bay'ah?

18 A. It's Bay'ah.

19 Q. Bay'ah, I'm sorry?

05:45:57 20 A. And I don't remember that being said.

21 Q. Okay.

22 MR. HARTMAN: Judge, can I have a moment?

23 THE COURT: Yes, you may.

24 MR. HARTMAN: Your Honor, I have no further
05:46:16 25 questions at this time.

1 THE COURT: Thank you. Any redirect of this
2 witness?

3 MR. SHEPHERD: Yes, Your Honor.

4 REDIRECT EXAMINATION OF JANET LYNN MILLER

05:46:20 5 BY MR. SHEPHERD:

6 Q. Ms. Miller, I just want to clarify, in the spring of
7 2015, were you actually a supporter of ISIS or the supporter
8 of the concept of a --

9 A. The concept of a Khalifa. It was never I supported
05:46:42 10 ISIS. I supported the establishment of Khalifa. Currently
11 those were the only people that we're trying to establish.

12 Q. And you were just asked about some text messages that
13 were received from Mr. Hendricks in which -- in May of 2015
14 in which he indicated that, according to the questioning,
05:47:02 15 comments about Islamic being peaceful and related texts. Do
16 you remember those?

17 A. Yeah, I do, um-hum, some of them. I didn't remember
18 what he said, some of it.

19 Q. Were those text messages consistent with what he told
05:47:16 20 you in person when you met with him?

21 A. Absolutely not.

22 Q. And what was different about what he told you in
23 person?

24 A. He wanted to support the establishment of Islamic
05:47:33 25 State, weapons, training area, and now he's saying how

1 peaceful Islam is in the texts. They weren't. It was
2 almost to wipe away what he said to me.

3 Q. During any of the text messages, did he indicate
4 whether he thought the FBI was following him?

05:47:50 5 A. Yes, he said the FBI was following him. He was going
6 to get an attorney and sue the FBI for following him.

7 MR. SHEPHERD: No further questions, Your Honor.

8 THE COURT: Thank you.

9 Anything else?

05:48:02 10 MR. HARTMAN: No recross, Your Honor.

11 THE COURT: All right.

12 Ma'am, you can step down. You're excused.

13 Be careful. Just take a moment.

14 Counsel, you may call your next witness.

05:48:29 15 MR. BENNETT: Thank you, Your Honor, at this time
16 the government would call Jeffrey Reese.

17 THE COURT: Sir, if you would approach the
18 witness stand over here to my right, please. Just remain
19 standing.

05:48:49 20 Raise your right hand, sir.

21 JEFFREY REESE,
22 of lawful age, a witness called by the United States,
23 being first duly placed under oath, was examined
24 and testified as follows:

05:49:04 25 THE COURT: All right. Be seated in the witness

1 stand, if you would. Just some brief instructions.

2 Please wait until the attorneys complete their
3 questions before you begin to answer. It's difficult for
4 listeners and the court reporters when two individuals are
05:49:19 5 speaking at the same time.

6 If there is an objection by either side, please wait
7 until I rule on the objecting objection before you answer
8 question. Of course, if I sustain the objection, you'll not
9 answer the question.

05:49:32 10 You need to respond verbally for the court reporter,
11 not through shakes of the head, nods or other forms of
12 response.

13 Thank you for your cooperation.

14 Counsel, you may proceed.

05:49:44 15 MR. BENNETT: Thank you, Your Honor.

16 DIRECT EXAMINATION OF JEFFREY REESE

17 BY MR. BENNETT:

18 Q. Mr. Reese, can you please introduce yourself to the
19 ladies and gentlemen of the jury and spell your last name
05:49:50 20 for the court reporter?

21 A. Absolutely. Good afternoon. My name is Jeff Reese.
22 My last name is R-E-E-S-E.

23 Q. And, Mr. Reese, are you here pursuant to a subpoena
24 today?

05:50:01 25 A. That is correct, sir.

1 Q. And prior to today, had you and I had an opportunity
2 to meet?

3 A. I have never met you before today.

4 Q. Have you had an opportunity to talk to the government
05:50:10 5 on the phone prior to your testimony today?

6 A. Yes, sir.

7 Q. Had an opportunity to review some documents prior to
8 today?

9 A. Yes, sir, that is true.

05:50:17 10 Q. Okay. Can you tell the members of the jury where you
11 currently live, just the city and state?

12 A. I live in Beloit, Wisconsin.

13 Q. And what exactly do you do for a living?

14 A. So I have kind of an unusual profession. I sell real
05:50:39 15 estate out west for a living.

16 Q. And where in particular, the states?

17 A. The majority of -- I've got several thousand acres in
18 northern Nevada spread through eight different counties. I
19 also dabble a little bit in California, Colorado, Arizona,
05:50:52 20 Mexico and Utah.

21 Q. And, in general, can you describe this land, what kind
22 of land it normally is?

23 A. The land I sell is remote. So it's usually larger
24 properties, from 20 acres up to 640 acres. But it is remote
05:51:07 25 land.

1 Q. When you say remote, is there running water on most of
2 the land?

3 A. Most of them there's not. Some of the properties will
4 have power and stuff. But most of them are off grid, no
05:51:16 5 running water. They will require a well and septic and that
6 kind of thing.

7 Q. And as far as ability to get to or ease to get to this
8 property?

9 A. It varies because I do have thousands of acres. But
05:51:30 10 most of them are quite remote and difficult to reach.

11 Four-wheel drive in most cases.

12 Q. And do you own this land outright?

13 A. I do. Every property I own, I own outright.

14 Q. And how do you market this land?

05:51:45 15 A. So I don't sell strictly through eBay. I sell through
16 my website as well. But Ebay is probably half of my sales.

17 Q. So I would like to bring your attention to
18 Government's Exhibit 121. And we'll start at 211, page 211
19 for now.

05:52:01 20 So I'll represent to you that Exhibit 121 is
21 approximately 257 pages.

22 Prior to your testimony, did you have an opportunity
23 to review this document?

24 A. Yes, sir, I did.

05:52:19 25 Q. Or series of documents.

1 And what in general are these documents?

2 A. So these are basically a series of Emails between
3 myself and the defendant, with his -- which started, you
4 know, when he started to purchase property from me. It's
05:52:35 5 just an exchange of a few messages.

6 Q. And can we blow up the middle from "you" down to
7 "56 people"?

8 And can you identify what information is being shared
9 here?

05:52:52 10 A. So in the bottom of this, it's got the title of the
11 property that he was buying. It's a 20-acre property in
12 northern California located in Lassen County. He was buying
13 it on land contract.

14 So that 295 you see in the lower left-hand corner was
05:53:06 15 his down payment. I believe the purchase price was 18,295.

16 But so anyway, that upper Email is him writing saying
17 he's excited about the purchase and he's not established
18 his -- our mailing address is not current on PayPal. And he
19 says he's going to establish a P.O. box tomorrow.

05:53:27 20 Q. And is the lower part, under Erick, the description of
21 the land itself?

22 A. That would be the title in the Ebay auction. So you
23 limit it to 80 characters. So I'm guessing that's 80
24 characters. And that looks to be one of my auction titles.
05:53:44 25 Even though it's a few years old, it does look familiar.

1 Q. All right. And then can we go to Exhibit 121, page
2 210.

3 A. All right.

4 Q. And, again, you've seen, in reviewing this, this
05:54:02 5 initial portion is kind of like metadata of your Email.

6 Can we focus on in the middle there date?

7 A. That appears to be December --

8 Q. Let me blow it up for you.

9 A. What I'm seeing is December 23, 2014. And I believe
05:54:17 10 that's at 5:46 a.m.

11 Q. All right. And it's from whom to whom?

12 A. And that is from me. I would be -- escapetheratrace.
13 And his Email address was that pageplussc@gmail. And that
14 is -- looks like a reply from me to him.

05:54:39 15 Q. Okay. And there's also a reference in the middle to
16 Ebay. Does this give you any idea as to how you were
17 marketing this particular piece of property?

18 A. Well, given the subject line, it's that same title,
19 the 20-acre property. This does appear to be a
05:54:58 20 message -- because some of the messages I send with
21 customers is through the Ebay format. Others are via Email.
22 And I had both with him. I think this is an Ebay message.

23 Q. Okay. And then midway through, you talk about a full
24 checkout Email. What is that in particular?

05:55:13 25 A. So initially when a buyer purchases a property from me

1 through Ebay, I send them a message like this because Ebay
2 provides me their full name and Email address. So I'll send
3 them an initial checkout message through Ebay letting them
4 know that I'll send a real and detailed checkout via regular
05:55:34 5 Email, which I did with him as well, which explains all the
6 payment options and that kind of thing.

7 Q. All right. So I want to go now, Exhibit 121 page 162.
8 And if we're just looking -- leave this up as it is
9 right now.

05:55:53 10 What's the date and the time on this particular?

11 A. The date on this is Tuesday, the 23rd of December,
12 2014 at 5:58 a.m.

13 Q. And do you know, would that be Eastern Standard Time,
14 Pacific Time, Mountain?

05:56:10 15 A. I'm pretty sure that would be -- I'm an early riser.
16 At 5:58 that was probably my time, Central Standard Time.

17 Q. Okay. In Wisconsin?

18 A. Correct.

19 Q. And this was just slightly after the Email we just
05:56:23 20 saw?

21 A. Exactly. This would be that follow-up Email that I
22 told him I would send, a checkout Email. And this is that
23 Email which is more than that page here. But yes.

24 Q. And what is the Email address that's being used here
05:56:35 25 at the top?

1 A. Again, this is that pageplussc@gmail.com.

2 Q. And then underneath it, next to the date, there's a
3 new Email address there?

4 A. And that is my personal Email and that's the
05:56:51 5 jeff@nevadainvestmentland.com.

6 Q. And what, in essence, are you explaining to Mr.
7 Hendricks in this particular Email?

8 A. So when I send them a checkout Email, I tell them a
9 little bit about me so they can know they're not dealing
05:57:04 10 with a bottom feeder. So I explain I've been around a long
11 time.

12 Then I provide them with their full name and address
13 that Ebay has provided with me. I ask them to confirm that.

14 I ask them how they would like to pay the down
05:57:17 15 payment.

16 And I ask them which monthly payment plan they would
17 like to repay the balance.

18 Q. And are you making it clear to him as far as your role
19 in ownership of the land?

05:57:28 20 A. Actually that's true, as well. I'm letting him know
21 I'm not a realtor or broker, that I own all the land that I
22 sell. I own it free and clear, keep the taxes, paid current
23 and everything.

24 Q. And looking at the bottom of this particular Email,
05:57:40 25 there's a reference to an address that Ebay sent you. What

1 was that?

2 A. So the address they gave me for Mr. Hendricks was the
3 1210 Augusta Road, and that's West Columbia, and that is
4 South Carolina.

05:57:54 5 Q. And what do you do with that information? Do you need
6 that information?

7 A. The majority of the time it is correct, but some
8 people have moved and not updated their PayPal -- or their
9 Ebay information, so I just ask them to confirm it because
05:58:07 10 it's all I was given by Ebay.

11 And so I provide them that. And sometimes they'll
12 update it and other times they will not.

13 Q. All right. And this Email goes onto the next page.
14 We'll bring that up in a second.

05:58:18 15 But at the very bottom there, what are you referencing
16 there?

17 A. So then at the bottom, he would be paying this 295
18 down of the total 18,295 purchase price.

19 I then finance the 18,000 balance and I provide
05:58:32 20 usually a half dozen different monthly payment plan options.
21 And in that bottom statement, I'm asking him which one he
22 wants. It does cut off. There's more options on the next
23 page.

24 Q. So let's turn to that. Exhibit 121, page 163.

05:58:46 25 And looking at the top, do you see a continuation of

1 that information?

2 A. That is correct. It had a couple payment plan options
3 on the last page. And then it shows three here. And then I
4 also provide him with the tracking information because I
05:59:01 5 send a document package priority mail.

6 Q. All right. And then in the middle there, there's a
7 reference to a dollar amount, and how that could be paid.

8 What's being provided there?

9 A. So then I'm outlining, again, the deposit. In this
05:59:15 10 case was 295. And then I let him know the different options
11 to make the down payment and we can process credit cards, we
12 do wire transfers, he can do PayPal, personal checks. I
13 provide my address. And just let him know basically his
14 options and then they get back to me.

05:59:31 15 Q. And do you provide any suggestion on how to provide
16 the credit card information?

17 A. Yes, I do. And then if they're going to send the
18 credit card, I ask them to send it in three different Emails
19 for security reasons and most people do.

05:59:45 20 Q. Okay. I would like to take you to Government's
21 Exhibit 121, page 156.

22 Can we blow up the kind of very bottom, just the date?

23 So if we're looking at the very bottom, because then
24 it goes on on the next page and we'll go there next, but
06:00:11 25 what's the date and time, and who is this from?

1 A. All right. So this one is -- this is on Tuesday,
2 December 23, again, 2014, and this time at 10:56 a.m. This
3 is from Mr. Hendricks at that same pageplussc@gmail address,
4 and in this Email he is sending me his credit card
06:00:31 5 information in different parts. It looks like one part came
6 through at 10:52 and then 10:54 and then I think 10:56 is
7 the final piece.

8 Q. So let's go to Government's Exhibit 121-157, page 157
9 for the first part.

06:00:46 10 And just at the top there. Come down about halfway.

11 That's good.

12 So at the bottom here of the screen, is that a
13 continuation of the Email that we've just looked at?

14 A. Correct. That appears to be the top portion of my
06:01:06 15 Email in which I'm telling him, you know, I'm not a realtor
16 or broker and -- yeah.

17 Q. Okay. And the top part is his response, what's he
18 telling you?

19 A. He's acknowledging that he would like to do the
06:01:19 20 credits card route. He'll be sending the information
21 shortly, and he thanks me for the quick reply and also let's
22 me know he is traveling to the property now to take a look
23 at the area. And he asks me if there is any clear markers
24 to distinguish the property.

06:01:33 25 Q. And did you provide him with information about the

1 actual location of the property?

2 A. I do provide -- certainly it was in my listing. I
3 provide a number of good maps, including plat maps, GPS
4 coordinates, so he would have had those things already. If
06:01:51 5 someone asked me to Email them additional maps and
6 coordinates, I do that at well.

7 But I do provide a great amount of information in my
8 listing.

9 Q. Okay. So can we go to Government's Exhibit 121, page
06:02:05 10 9.

11 And, again, if we go in the middle there, "From Jeff,"
12 down to the end of the page.

13 It got cut off there a little bit. But who is this
14 from? Who is it to, the date and time?

06:02:24 15 A. All right. So this is from myself, again, to Mr.
16 Hendricks at the same Email address I've been quoting. This
17 took place on Thursday, December 25, 2014 at 7:12 a.m. And
18 again, I suspect that Central Standard Time because it's
19 from myself.

06:02:41 20 And this Email is, I'm saying, "Good morning, Merry
21 Christmas." Apparently he had sent me an Email previously
22 that he was having trouble, or difficulty in finding or
23 reaching the property. So I'm asking if he had any luck
24 reaching, at least I think that's the sequence here.

06:02:58 25 Then I go into the property on Opossum Trail. I

1 purchased it in 2012. I explain that I visited it in June
2 of '12 and sold it in August of '12 via land contract.

3 Anyway, it appears I'm offering him a different
4 property, if he wasn't happy with that particular property.

06:03:17 5 Q. Okay. You mentioned correspondence regarding
6 difficulty finding the piece of property.

7 Can we go to Exhibit 121, page 11?

8 Can we pull up the Email itself?

9 Looking at this, is this the Email you're referencing?

06:03:41 10 A. That is correct. And this is his Email telling me
11 that he was having a difficult time getting to Opossum Road.
12 The locals have some roads blocked with private fencing and
13 no trespassing signs. We managed to get within a mile. We
14 need a jeep or a truck.

06:03:56 15 He said "The weather is not cooperating. The roads
16 are muddy. We left South Carolina in search of a property
17 out west. At this point, we've not seen either property.
18 We are going to try find a way to Aspen Trail one more name.
19 If you have any properties with better access, we are
06:04:12 20 definitely interested. We will get back to you as soon as
21 we can view the property. Other than maps, do you have
22 turn-by-turn directions?"

23 Q. Again is this kind of typical? Properties you're
24 selling and kind of they're out there and difficult to get
06:04:23 25 to?

1 A. That is correct. I mean not all of them, but I would
2 say 70 percent of them you should take a four-wheel drive.
3 And they're remote.

4 Q. And then can we turn to Exhibit 121, page 7.

06:04:40 5 And it would be just the bottom part there.

6 Can you for the record say who this is from and who
7 it's to and the date and the time?

8 A. Absolutely. Again this Email is to me from Mr.
9 Hendricks. It's from his pageplussc@gmail to me at my
06:05:06 10 jeff@nevadainvestmentland account.

11 This is, again, Christmas day, Thursday, December 25,
12 2014 at 12:03 p.m. And, again, that one it could be Western
13 or Pacific time.

14 Q. Okay. But anyway, this is slightly later in the day
06:05:19 15 from what we've seen?

16 A. That is correct.

17 Q. And what information is Mr. Hendricks providing to
18 you?

19 A. So it appears he's saying, "I know your day is busy."
06:05:29 20 It was Christmas. "I appreciate your Emails this morning.
21 It's a bit cold up here in Lassen County. We do like this
22 area. We have all of our things packed up and would like to
23 settle as soon as possible. Nevertheless, we want to make
24 sure we are comfortable here for the long-term. Here are
06:05:43 25 some things we're looking for in the property."

1 He outline three, number one being privacy; two, "We
2 prefer trees, vegetation on the property, and preferably not
3 totally baron. Roads accessible by car, even in wet
4 conditions."

06:05:57 5 Q. If we go to Exhibit 121, page 8, and to the top.

6 Is this a continuation of that Email?

7 A. It is. In fact, his last line on the previous page is
8 "We do not mind," and then it would be "dirt roads. We're
9 too far from a country maintained road. We don't mind
06:06:18 10 wilderness locations, we would like to be within 15 to 20
11 miles of gas, food and water. Land suitable for gardening
12 is also a preference, but not a deal breaker and little or
13 no building restrictions."

14 Q. And with regard to this Email, did you, in fact, then
06:06:32 15 start looking at other pieces of properties?

16 A. I did. Then I offered him up -- my selection in
17 northern California is not as great. So I offered him a
18 number of properties, the same size, in Pershing County,
19 Nevada which is the same distance from Reno as Lassen
06:06:48 20 County, roughly.

21 Q. So if we go to Exhibit 121, page 5, at the bottom. Is
22 this the Email you're referencing?

23 A. That is correct. And this is the topography of these
24 pieces of land. These would be much the same aside from the
06:07:14 25 three in Nevada, but they're equally as remote. Off grid.

1 Same kind -- everything I offered him to replace the Lassen
2 County property. It would have been in the same price range
3 and characteristics of the other property.

06:07:30 4 Q. And then do you know what happened then or what the
5 status of the California land was?

6 A. I believe he abandoned hopes on that one. And I think
7 he went down in Nevada. I offered -- I think to put him up
8 in the cabins at the Humbu River Ranch, but I don't think it
9 ever materialized.

06:07:47 10 Q. So let's look at Government's Exhibit 121, page 79.
11 And this is just the bottom portion there.

12 So the date down.

13 What's the date of this particular Email?

14 A. That one is dated Friday, the 26th of December, 2014.
06:08:10 15 And that one is at 3 -- or 15:54. Listed at UTC.

16 Q. So this is a day later?

17 A. Correct.

18 Q. And who is Amy?

19 A. That would be my wife.

06:08:21 20 Q. Okay. So the same address?

21 A. Correct.

22 Q. On the back end and Amy that's there.

23 And what's the subject line here?

24 A. Let's see. The subject line is "California land."

06:08:35 25 Q. So let's go in the continuation of that Email. If we

1 go to Exhibit 121, page 80.

2 And then from the top down to Amy.

3 And what is being communicated here?

4 A. So this is my wife writing back to Mr. Hendricks. She
06:08:57 5 says, "Erick, good morning." Would you like knee to go
6 ahead and read a little?

7 Q. No, just in general.

8 A. She's basically saying apparently that property in
9 California is not going to work for them. Jeff -- that I
06:09:08 10 would be sending him some other options. I'm going to go
11 ahead and cancel the transaction on Ebay. We'll leave you
12 some nice feedback.

13 And then just explained that he'll get an automated
14 Email from Ebay. "If you have any questions, let me know.
06:09:26 15 And have a safe weekend."

16 Q. And if we pull back out and stay on this page, if
17 you're reviewing it, does it look like this is the same
18 Email just in kind of different fonts?

19 A. That's correct.

06:09:41 20 Q. In your review of this Exhibit 121, did you see that
21 occurring a lot?

22 A. Do you mean where people would be out on a property?

23 Q. No, like there's multiple versions of the same Email.

24 A. Oh, yes.

06:09:58 25 Q. So let's go to Exhibit 121, page 74.

1 And go from the date in the middle, down a little
2 bit -- all right. Date and across down to the bottom.

3 And what's the date of this particular Email?

4 A. Again, this one is the 26th of December, being a
06:10:24 5 Friday, 2014. And that one is at 8:56 a.m.

6 Q. All right. And in the middle, it's directed to whom?

7 A. This appears to me -- this is to Mr. Hendricks from
8 Ebay.

9 Q. All right. And there's a reference of a canceled
06:10:40 10 order by whom?

11 A. Let's see. We've got -- it appears that I canceled on
12 my end.

13 Q. Okay. So that's you?

14 A. Correct. That would be -- I canceled -- as I told him
06:10:54 15 I would, to cancel the transaction through Ebay.

16 Q. So looking at the plot of land itself, can we bring up
17 Government's Exhibit 123.

18 Can you identify this document?

19 A. I can. That would be a plat map overlaid on the Earth
06:11:19 20 and the property I was selling outlined in red.

21 Q. And, again, what's the description of this -- do you
22 own all these properties of land?

23 A. No, I do not.

24 Q. So the one in red is the particular property we're
06:11:32 25 talking about?

1 A. That is correct.

2 Q. And what's the description of this property itself, or
3 I guess the plat that's there?

4 A. So this property would be roughly 660 feet wide, 1,320
06:11:42 5 feet long. It's a 20 acre property.

6 And it looks to be wooded and semi-rugged.

7 Q. And do you know whether there's running water,
8 electricity?

9 A. Yeah, I do know and there's not. There's no power.
06:11:56 10 This is an off grid. There's no water. You would have to
11 drill a well and install septic.

12 Q. Was this something that you prepared?

13 A. This plat map overlay, I did create that.

14 Q. So let's look at Exhibit 122.

06:12:11 15 And is this the plat itself?

16 A. That is correct. And this is issued by the county of
17 last send. So this -- I didn't create but this is an
18 official plat map.

19 Q. And then can we look at Government's Exhibit 124. Can
06:12:28 20 you identify this document?

21 A. This, again, is a Google Earth satellite with a plat
22 map made to scale overlay on the Earth.

23 Q. And is this particular piece of property near anything
24 unique?

06:12:43 25 A. Well, it's very remote. There's very little out here.

1 There's probably no homes within four or five miles
2 excluding maybe a ranch. The nearest town -- if this is
3 what you're, Susanville would be the nearest town. And the
4 closest real town would be Reno, which is roughly an hour
06:13:01 5 and a half away.

6 Q. Any military establishment?

7 A. The Herlong military ammo depot is right in this area.
8 I think it's to the east. But, yeah, so there's a large
9 army depot where they store ammunition up there.

06:13:16 10 Q. At any point ultimately did you sell any land to Mr.
11 Hendricks?

12 A. I did not.

13 Q. Did you ever actually meet him face-to-face?

14 A. I did not.

06:13:25 15 Q. Did you ever actually talk to him on the phone?

16 A. I did not, that I can recall. I'm pretty sure I did
17 not.

18 MR. BENNETT: No further questions. Thank you,
19 Your Honor.

06:13:37 20 THE COURT: All right. Thank you.

21 Counsel, you may cross-examine.

22 MR. DOUGHTEN: Thank you.

23 CROSS-EXAMINATION OF JEFFREY REESE

24 BY MR. DOUGHTEN:

06:13:46 25 Q. Good afternoon, Mr. Reese.

1 A. Good afternoon.

2 Q. The weather much better back where you are at this
3 time of year?

4 A. No, Wisconsin is about the same, maybe worse.

06:13:59 5 Q. I only have a few questions for you. And I'm
6 unfamiliar with how PayPal and such works so I want to kind
7 of go through that with you.

8 A. Gladly.

9 Q. Now, if I understand your business, you list
06:14:11 10 properties all over the country, but mostly in the west on
11 Ebay; is that correct?

12 A. Correct, as well as Land Watch and I have a website.
13 But Ebay is -- I sell more lands and Ebay than any place.

14 Q. So if somebody wanted to find some rugged property to
06:14:30 15 buy or whatever reason, what happens? You go on a Google
16 Search and just put western land for sale? How does that
17 happen?

18 A. I think it varies from people to people. But a lot of
19 people start searching land out west. But typically, I
06:14:45 20 rarely have met any of them. Most of them will Google ahead
21 of time and arrange things beforehand. In this case, I
22 didn't know he was actually there at that time which is more
23 unusual. But, yeah, that's almost all Internet.

24 Q. Not unusual, but not unheard of either that someone
06:15:02 25 would want to look in the area and then call you, correct?

1 A. Correct.

2 Q. And so when this happens, if I understand, do you
3 just -- so let's say I call you and I say, Mr. Reese, you
4 know, my wife and I are looking for property not
06:15:16 5 too -- within a couple hours of Reno, but we want to be away
6 from everybody.

7 Then what happens? Do you give us the land area? Or
8 do you tell us how to get there? Do we have to put to down
9 payment. How does that work out?

06:15:30 10 A. First I try to narrow it down because Nevada is
11 massive and I have land in eight counties. So if some
12 people like that everything is near Vegas, well none of my
13 land is. It's four or five hundred miles a way. Others
14 think it's near Reno. Some of it is. But if they are after
06:15:47 15 a certain area, and if they don't know, I find out do need
16 water, power, main road access.

17 I try to main -- and a lot of people do. They want to
18 build on it. And other people do not. Some people want to
19 be out in the sticks. I get a lot of preppers and things
06:16:03 20 like that.

21 Q. Is it unusual -- I got the feeling it wasn't, but
22 correct me if I'm wrong, but people, the idea of having some
23 rugged place sounds great until they actually go out and
24 there and see how rugged it and then they're not interested?

06:16:14 25 A. Sometimes I get somebody from like from New York City

1 and they picture it different than it's going to be. But
2 for the most part, people have done some research and are
3 either planning a trip or, you know, set something up.

06:16:28 4 Q. And you mentioned, just to get some perspective, now
5 Reno is kind of like on the western border near Lake Tahoe;
6 is that correct?

7 A. Correct.

8 Q. In northern Nevada?

9 A. That is correct.

06:16:38 10 Q. So I think I-80, you mentioned, just to give us an
11 example, how far south is I-80?

12 A. I-80 goes right through the heart of Reno. Runs
13 through there from San Francisco all the way east coast so
14 I-80 is the big artery through Nevada.

06:16:52 15 Q. Go ahead. I interrupted.

16 A. No, I'm good.

17 Q. So that if you were going to go out to run of your
18 properties, you would have to go out I-80, and I guess I'm
19 strike to get an idea, for instance, the exhibit what the
06:17:03 20 government showed you, when you got off I-80, how far a
21 drive would it be to these properties?

22 A. To this property, if you left I-80, you would be a
23 solid two hours, maybe a little bit more. And most of mine
24 will be that way. In some counties, not as much. In Elko
06:17:19 25 County, I have land that's within a few miles of I-80, but

1 in this case, it's two hours.

2 Q. The idea is if they see it, then do you send them
3 directions, specific directions, how to get to a particular
4 parcel?

06:17:30 5 A. In that scenario I would. Most people have contacted
6 me before they've headed out there. I would say 90 percent.
7 It's pretty rare that someone is standing there -- like I
8 didn't know he had -- you know, he was ready and he was
9 already there.

06:17:43 10 Most of the time, I'm going to be out there in two
11 months, can you send me some options? And then they'll go
12 through coordinates, because it's a pain in the
13 ass -- excuse me. It's a pain in the butt if somebody gets
14 to buy it, ends my option and says, "I'm standing there and
06:18:01 15 this one is not going to work for me. I lose a hundred
16 bucks in Ebay fees."

17 So I prefer if they plan it, but I can't control it.

18 Q. Let's say I want to go look. I'm not sure I
19 understand the PayPal aspect of this.

06:18:12 20 So -- I guess so to make sure that they're, say
21 legitimate, but truly interested, you have them make a down
22 payment? Or was this an actual down payment to purchase the
23 land. How does this work?

24 A. So the down payment does apply to the purchase. So in
06:18:26 25 this case, it was 18,295. So I wanted him to have a little

1 skin in the game. And 295 would be that in this case.

2 PayPal is just one option for payment. And it's used
3 regularly. But credit card is probably more. But PayPal is
4 an option.

06:18:43 5 Q. Now, the way PayPal, I saw on there -- let me
6 put -- all the communications were Erick Hendricks, correct?

7 A. Correct.

8 Q. And in PayPal, I saw an address in Columbia, South
9 Carolina, does PayPal verify? How does that work? How do
06:19:00 10 you verify that's the person you're talking to?

11 A. So in this case -- I don't think he paid PayPal. I
12 think he used a credit card.

13 Q. Credit card?

14 A. But it really varies with PayPal. Their security
06:19:11 15 measures are pretty good these days. They haven't always
16 been, but I've never had any issues with PayPal as far as
17 the wrong person paying or being who they were.

18 Q. Okay. But in this instance, he always communicated to
19 you with Erick J. Hendricks, correct?

06:19:25 20 A. Correct.

21 Q. And the address you received was Columbia, South
22 Carolina, correct? And I think there was a credit card for
23 Tyrinda Hendricks?

24 A. Sounds correct. I believe that was his wife.

06:19:36 25 Q. So it didn't work out and they said they are not going

1 to go ahead with the purchase, and then you just refund the
2 money?

3 A. Exactly.

4 MR. DOUGHTEN: One second, Your Honor.

06:19:47 5 THE COURT: While we're doing that, you
6 referenced the term "peepers." Is that you said?

7 THE WITNESS: Preppers.

8 THE COURT: Just wanted to be sure. The court
9 reporter needs to take that down.

06:20:08 10 MR. DOUGHTEN: Your Honor, we have no further
11 questions. Thank you much.

12 THE COURT: Any redirect of the witness?

13 REDIRECT EXAMINATION OF MICHAEL GILL

14 BY MR. BENNETT:

06:20:15 15 Q. Let's just clarify that. When you say prepper, what
16 are you referring to?

17 A. So prepper would be, in my mind anyway, people that
18 the preparing for the end of the world or doomsday, people
19 that want to have a shelter and their supplies and food.

06:20:29 20 And there's all levels of them. So I do encounter some
21 preppers.

22 Q. Because it's so far away from?

23 A. Yeah, they figure they will be away from the fallout.

24 Q. But you wouldn't consider your property in this
06:20:42 25 particular one a tourist attraction?

1 A. No.

2 Q. And then you said that you normally have people that
3 will contact you in advance and get the info that's there?

4 A. Yeah, almost always. You know, people communicate
06:21:02 5 with me. I'll send them different property options, GPS
6 coordinates so they can look at it on Google and I make it
7 so when they get out there, they're not wasting their time
8 and they are got a few different options because people are
9 usually limited on time and properties are spread out all
06:21:18 10 over the place.

11 Q. So this isn't like you got a sign in front of the yard
12 and somebody says, "I was driving around the neighborhood
13 and I saw this house. Can you show it to me?"

14 A. That's correct there's no signs. It's all -- they
06:21:27 15 need coordinates and they need to be in touch with me or
16 they'll never find it.

17 MR. BENNETT: Thank you. No further questions.

18 MR. DOUGHTEN: Nothing further.

19 THE COURT: All right, sir. You can step down.
06:21:38 20 Safe travels back to your home state.

21 THE WITNESS: Thank you. All have a great
22 weekend.

23 THE COURT: Counsel, do you have another witness
24 available?

06:21:48 25 MR. BENNETT: We do. At this time the government

1 would call Michael Gill.

2 THE COURT: We're going to adjourn, ladies and
3 gentlemen of the jury at 4:30, or if we finish this witness
4 we'll adjourn earlier. This will be our last witness of the
06:22:01 5 day.

6 Everyone okay? Anyone need a break?

7 MR. BENNETT: This should be short, Your Honor.
8 We should be done.

9 THE COURT: All right. Thank you.

06:22:08 10 Sir, if you would come in and please approach the
11 witness stand.

12 MICHAEL GILL,
13 of lawful age, a witness called by the United States,
14 being first duly placed under oath, was examined
06:22:32 15 and testified as follows:

16 THE COURT: All right, sir. Be seated in the
17 witness stand here.

18 Just a few brief instructions. Please wait until the
19 torn complete their questions before you begin to respond.
06:22:41 20 It's difficult for the court reporter and listeners when two
21 people speak at the same time.

22 If there is an objection, do not answer the question
23 until I rule on the objection. Of course, if I say
24 sustained, you won't answer the question. And you need to
06:22:55 25 respond verbally to all the questions for the court

1 reporter.

2 All right. Thank you very much.

3 Counsel, you may inquire.

4 MR. BENNETT: Thank you, Your Honor.

06:23:01 5 DIRECT EXAMINATION OF MICHAEL GILL

6 BY MR. BENNETT:

7 Q. Mr. Gill, can you please introduce yourself to the
8 ladies and gentlemen of the jury and spell your last name
9 for the court reporter?

06:23:07 10 A. My name is Michael Gill, it's G-I-L-L.

11 Q. And, Mr. Gill, are you here pursuant to subpoena
12 today?

13 A. Yes I am.

14 Q. And prior to today, did we meet at any point?

06:23:19 15 A. No.

16 Q. Did we have the opportunity to speak or you spoke to
17 the prosecution prior to your testimony here today?

18 A. Yes.

19 Q. Had an opportunity to review some documents?

06:23:30 20 A. Yes.

21 Q. Can you let the members of the jury know what city and
22 state you live in?

23 A. Phoenix, Arizona.

24 Q. And what did you do for a living?

06:23:40 25 A. I'm a teacher.

1 Q. Did there come a time where you had some land in New
2 Mexico?

3 A. Correct, yes.

4 Q. How did that come about?

06:23:49 5 A. I -- it was an impulse buy. I was living in Japan and
6 I bought 20 acres of land in New Mexico with the hopes of
7 possibly retiring on it with my wife.

8 Q. And where in New Mexico generally was this land?

9 A. It's about 20 miles north of a city called Magdalena
06:24:11 10 which is about an hour and a half or two hours south of
11 Albuquerque.

12 Q. Can you provide a general description of the land that
13 you had?

14 A. Twenty acres. There's nothing on it. It is
06:24:28 15 surrounded by barbed wire offense. Some hilly terrain, but
16 mostly flat shrubbery.

17 Q. Would you consider it barren, desolate?

18 A. Desert, yes, desert landscape.

19 Q. Can we bring up Government's Exhibit 186?

06:24:49 20 Prior to your testimony here today did you provide us
21 with some photographs of the land?

22 A. Yes, I did.

23 Q. Can you identify what Government's Exhibit 186, page 1
24 is?

06:24:59 25 A. Yes. That is a view. I took that picture. I was

1 standing on the north side. And that picture is in the
2 southerly direction.

3 Q. So would consider this a true and accurate depiction
4 of this portion of the property?

06:25:18 5 A. Yes.

6 Q. Can we go to Government's Exhibit 186, page 2?
7 And can you identify this document?

8 A. Yes. It's just -- I'm facing -- that should be facing
9 towards the west of the property.

06:25:33 10 Q. And if I'm looking at this -- so this is a true and
11 accurate depiction of your land?

12 A. Yes, it is.

13 Q. And if I'm looking at it, there's a hill kind of in
14 addition and a bush. Does it go beyond that?

06:25:48 15 A. No. Actually there's a fence, a barbed wire fence,
16 really hard to see there, that will prevent you from going
17 beyond that.

18 Q. So let's look at Government's Exhibit 186, page 3.
19 And, again, can you identify this picture?

06:26:06 20 A. Yes. Again, that would be in the southerly direction.
21 The mountain was on the south side of the property.

22 Q. And then finally, Government's Exhibit 186, page 4.
23 Can you identify this document?

24 A. Yes. I'm now facing towards the north. That would be
06:26:29 25 the only access road into the property. And to the right is

1 my car.

2 Q. So this is a picture you took and provided?

3 A. Yes.

4 Q. Did there come a time where you were attempting to
06:26:44 5 sell this particular piece of property?

6 A. Yes. Early on in about 2014, my wife and I decided
7 that we were planning to move back to Japan and that we
8 would not be using the property.

9 Q. Okay. So I want to bring up Government's Exhibit 187.
06:27:04 10 And just kind of pull up the middle there from the
11 date range down.

12 Stop right there.

13 Can you identify this document?

14 A. Yes.

06:27:18 15 Q. And what is this?

16 A. I believe that was the ad that I had placed.

17 Q. All right. So there's a name there. Is there a name?

18 A. Yes, Mike Gill.

19 Q. And there's a purchase price?

06:27:34 20 A. Yes, 12,500.

21 Q. And there's a reference in the middle to "off the
22 grid"?

23 A. Yeah.

24 Q. What were you referencing here as far as "living off
06:27:42 25 the grid"?

1 A. Well, there are power lines to the property. You
2 would have to bring those in. It would be costly. You
3 would have to drill for a well. So you would have to pretty
4 much provide everything. You wouldn't be able to get any
06:27:57 5 city services provided for you.

6 Q. Okay. And was there other websites or means in which
7 you were marketing this product?

8 A. For a really short time, I explored a land website
9 that had cost money. So I only took advantage of I believe
06:28:17 10 like a fee month of service. And then I was primarily
11 focused on Ebay.

12 Q. And did you get inquiries into purchasing this land
13 through Ebay?

14 A. Yes, I did.

06:28:28 15 Q. And is there any specific inquiry that stood out to
16 you?

17 A. Yes, one did stand out.

18 Q. All right. So let's look at Government's Exhibit 120.
19 And actually we have to go to page 2. I apologize. 120,
06:28:49 20 page 2.

21 Again, there is a lot of metadata that is there. But
22 can we go from the date down.

23 What is the date at the to be there?

24 A. It appears to be the 31 of December, 2014.

06:29:11 25 Q. And was this the inquiry that you had said stood out

1 to you?

2 A. Yes, sir.

3 Q. Why did this particular inquiry stand out?

4 A. The person who was inquiring about the land wanted to
06:29:26 5 know if they could shoot weapons on the land and even
6 inquired if they could shoot weapons at night.

7 I didn't know if that was possible or not. So I
8 contacted the property owner's association just to verify if
9 that was allowed or not. And it was not allowed.

06:29:47 10 Q. Okay. And if we're looking at the top here, there's
11 an Email address from. Is that your Email address?

12 A. It says, "Reply to Mike Gill, unlearnit@yahoo.com."
13 Yeah, that's mine.

14 Q. And who were you sending the response to?

06:30:07 15 A. The person who had inquired about the shooting on the
16 property.

17 Q. And just for the record, that's listed there as
18 pageplussc@gmail.

19 A. Yes.

06:30:19 20 Q. What was your reaction to this inquire? Did you have
21 a reaction to someone asking to shoot guns?

22 A. Well, living -- people who like to live outside on
23 that property tend to also like to hunt and do things, so it
24 wasn't too surprising to me.

06:30:36 25 I guess it was the manner in which he was inquiring.

1 Q. What do you mean by that?

2 A. Well, he had gone into telling me that he had suffered
3 from PTSD, that he really liked guns, that he wanted to live
4 off -- you know, off the grid, and shoot and things like
06:31:03 5 that with -- along with his partner.

6 Q. Okay. And did you know this particular Email address?
7 Did you know who it belonged to?

8 A. No. I don't recall.

9 Q. Did you ever meet the individual?

06:31:16 10 A. No.

11 Q. And looking at the text of the Email itself, what are
12 you doing with regard to the actual location of the
13 property. Providing him any information?

14 A. Yeah. There was -- we had only spoke a few times, and
06:31:37 15 one of the times he had mentioned that he might want to go
16 and look at the property. And so I was providing directions
17 to the property. It was a little bit difficult to find. So
18 I'm not sure if the person ever went to see it or not.

19 Q. Did you have any kind of like for sale sign on the
06:31:57 20 land?

21 A. No.

22 Q. So if somebody was driving buy, would they be able to
23 know you were selling it and contact you?

24 A. No.

06:32:04 25 Q. Do you know whether this individual actually ever

1 visited the property?

2 A. I don't know.

3 Q. Did you end up selling your piece of property to this
4 individual?

06:32:14 5 A. No.

6 Q. Do you know why?

7 A. I had inquired to the property owner's association if
8 they were allowed to shoot guns or not. The person also
9 wanted to make payments on the land. I at first was
06:32:30 10 hesitant, but then I said sure. I would accept payments
11 because I really didn't want the land anymore.

12 And once -- after I had found out that it was not
13 allowed, I had tried to contact him back a few times
14 unsuccessfully, and then I got in contact with his partner
06:32:55 15 at that time. And then I said that you are not allowed to
16 shoot at night and everything, and then she had told me, if
17 it was for shooting or not, I don't know. But they were no
18 longer interested in purchasing the land.

19 Q. And did you have a reaction to having the sale not go
06:33:15 20 through?

21 A. I was relieved.

22 Q. Why?

23 A. I didn't -- I just felt that the individual was
24 unstable.

06:33:25 25 Q. Did you ultimately sell this piece of property?

1 A. Yes.

2 MR. DOUGHTEN: Objection, Your Honor.

3 THE COURT: Sustained. Disregard the answer,
4 ladies and gentlemen.

06:33:34 5 MR. BENNETT: No further questions, Your Honor.

6 THE COURT: Thank you, counsel.

7 Counsel, you may inquire.

8 CROSS-EXAMINATION OF MICHAEL GILL

9 BY MR. DOUGHTEN:

06:33:44 10 Q. what's on the screen, Government's Exhibit 120.2, did
11 you preserve the actual request from the person asking to
12 shoot the guns?

13 A. I'm sorry?

14 Q. Did you preserve the actual Email --

06:33:56 15 A. Oh, no, that was done verbally on --

16 Q. So there is no Emails of this request?

17 A. No.

18 Q. So let me make sure I get this straight. Somebody
19 called you on the telephone?

06:34:06 20 A. Um-hum.

21 Q. And they -- how did they identify themselves?

22 A. As a person who wanted to purchase the land.

23 Q. Did they give a name?

24 A. They might have. I believe so at one time. But I
06:34:17 25 don't remember the name.

1 Q. And did you write down the phone number or anything
2 like that?

3 A. It was in my cell phone at one time, a different cell
4 phone that I know longer have.

06:34:27 5 Q. No longer have. Okay.

6 So the only -- this person on the phone gave you this
7 pageplus address?

8 A. They must have. I don't recall.

9 Q. You're not sure how you got that?

06:34:38 10 A. Yeah.

11 Q. Did anybody respond to this pageplus message?

12 A. Not that I recall.

13 MR. DOUGHTEN: Thank you. No further questions,
14 Your Honor.

06:34:45 15 THE COURT: All right, sir. You may step down,
16 you're excused. Thank you for being here this afternoon.

17 I assume you have no redirect of the witness?

18 MR. BENNETT: No, Your Honor. Thank you.

19 THE COURT: Thank you.

06:34:58 20 Counsel, sidebar, please, just briefly.

21 (Discussion at sidebar as follows:)

22 THE COURT: Your next witness is much longer, I
23 take it?

24 MR. SHEPHERD: Yes, Your Honor. Our next witness
06:35:16 25 would actually be the undercover officer who we would

1 request be able to start tomorrow morning.

2 THE COURT: We're going to start tomorrow morning
3 with all of the protective order applying?

4 MR. SHEPHERD: Yes, Your Honor.

06:35:31 5 THE COURT: Are we going to be able to do that at
6 9:00, or do we need to start at 9:30.

7 MR. SHEPHERD: Your Honor, what I would
8 propose -- the witness can be here at whatever time, but I
9 would propose that he be here sitting on the stand at 8:45.
06:35:45 10 The parties can then see what he looks like and determine if
11 they request an instruction for the disguise issue and that
12 be done outside the presence of the jury. Because once they
13 see him, it may not be an issue.

14 THE COURT: So we'll have to have the courtroom
06:36:03 15 closed at 8:30, thereabouts.

16 MR. SHEPHERD: Yes, Your Honor, if you would like
17 to start at 9:30, that's fine with us as well.

18 THE COURT: I'm just a little concerned. I want
19 to be sure we don't have any issues about disguise and
06:36:14 20 delay. So let's start at 9:30. Just so we can clear all
21 that up in case there's an issue. We'll be here at 8:45 or
22 9:00, but that way we can make sure there's no issues at
23 all -- if there is any issue we will deal with it.

24 MR. SHEPHERD: We'll be here at 8:45 and whenever
06:36:31 25 you want the witness brought up, we'll bring him up.

1 THE COURT: All right. And I want to make sure
2 that we have the other adjoining room opened.

3 MR. SHEPHERD: Yes, Your Honor.

4 THE COURT: In case the media -- I don't know if
06:36:41 5 he'll come back. Did he ask you about this witness coming
6 on?

7 MR. SHEPHERD: He has asked when it's going to
8 be. And indicated, which I take to mean he wants to come
9 back, Your Honor. But I told him I didn't know yet because
06:36:55 10 I didn't know how today was going to finish up.

11 THE COURT: He wrote a lengthy story already on
12 Cleveland.com. So I'm just going to have to tell the jurors
13 that's where it's at so they can ignore it and not stumble
14 across it.

06:37:10 15 MR. SHEPHERD: I anticipate he'll come back
16 tomorrow is my guess.

17 THE COURT: Me too. I hope he comes back timely;
18 otherwise, he'll miss it. And that's -- it is what it is.

19 All right.

06:37:19 20 (The following proceedings were had in the hearing of
21 the Jury:)

22 THE COURT: All right, ladies and gentlemen of
23 the jury. We're going to adjourn for the day. Let me give
24 you some instructions.

06:37:35 25 First of all, I've given you instructions throughout

1 the trial. I want to reemphasize to you how important it is
2 that you do not form or express any opinions on the matter
3 until the case is submitted to you.

4 Do not discuss the case among yourselves or with
06:37:50 5 anyone else this evening.

6 Also, I want to stress to you how important it is that
7 you not use the Internet, do not attempt to obtain any
8 additional information about any of the issues in this case,
9 any of the events that you've heard described here. None of
06:38:02 10 that type of research is appropriate.

11 Please, do not do any of those things.

12 Also, I will alert you to the fact that -- I am just
13 be very direct. There's a news media account, a story on
14 Cleveland.com, which is also known as The Plain Dealer.

06:38:21 15 Please refrain from reading that story, ignore -- please
16 ignore it and not read it.

17 And I don't recall, I think The Plain Dealer is only
18 published four days a week now. I don't know whether they
19 publish tomorrow or not. Whatever, please ignore The Plain
06:38:39 20 Dealer, also ignore Cleveland.com which will have a story
21 about this case.

22 Additionally, we are going to begin tomorrow morning
23 at 9:30. There's some procedural issues I need to cover
24 with getting ready for trial tomorrow and getting witnesses
06:38:54 25 and things organized here.

1 So rather than having you waiting in the jury room,
2 let's start at 9:30. There will give you a little extra
3 time. I don't know if there is going to be snow or not. Be
4 in the jury room at 9:30. We will proceed promptly. We'll
06:39:07 5 beginning you in and start promptly at that time.

6 I'm getting ahead of myself. So much I don't forget.
7 The other thing I think you're probably all aware of, but
8 I'll bring it to your attention anyway. I've had jurors not
9 show up on time because of the time change, so we're going
06:39:22 10 to be springing ahead. So we're all going to lose an hour
11 of sleep this weekend. So keep that that in mind. That
12 will have some bearing on Monday morning. We will all have
13 an extra hour of sleep -- I'm sorry, we will lose an hour of
14 sleep.

06:39:36 15 So we'll see you tomorrow morning at 9:30. Thank you
16 for your patience. Leave your notepads on your chairs and
17 we will see you again tomorrow.

18 Thank very much.

19 (Jury out, 3:50 p.m.)

06:40:15 20 THE COURT: All right, Counsel, just be seated
21 very briefly.

22 Any other issues, concerns, you wish to address with
23 me before we adjourn?

24 On behalf of the government?

06:40:25 25 MR. SHEPHERD: No, Your Honor.

1 THE COURT: On behalf of the defendant?

2 MR. DOUGHTEN: No. We got the issues hammered
3 out yesterday. We're fine, Your Honor.

4 THE COURT: Good. Now, tomorrow morning, again,
06:40:32 5 I would ask counsel to be here between 8:45 and 9:00. We'll
6 have a little bit of time. We'll bring the witness in, make
7 sure we're completely organized and make sure we have
8 adequate time to make whatever record need to be made.

9 I'll also alert our staff that we are going to be
06:40:49 10 using tomorrow morning the additional room for the audio
11 feed so that that's available for anyone who wishes to
12 listen to that testimony.

13 And so we want to be sure that occurs.

14 Also, I'll be instructing our staff to be certain that
06:41:09 15 in an abundance of caution, we will be double checking to
16 make sure there are no cell phones or any other type of
17 recording devices in the courtroom just as a matter of,
18 again, just to be sure.

19 And then beyond that, one other quick question, just
06:41:26 20 for my own understanding. How long will this witness's
21 testimony be, at least on direct, do we know?
22 Approximately.

23 MR. SHEPHERD: Your Honor, I believe it will take
24 all morning and into the afternoon. I would say early
06:41:39 25 afternoon --

1 THE COURT: Hours is what you're saying?

2 MR. SHEPHERD: Yes. I expect it will be hours,
3 Your Honor.

4 THE COURT: All right. I'm not sure -- hopefully
06:41:51 5 we'll be able to complete the cross-examination, hopefully
6 we'll be able to get the witness's testimony tomorrow in
7 full.

8 Again, not to belabor the point, but also be apprised,
9 and be aware, those alternate jurors are going to be right
06:42:04 10 there on top of this witness, so if anything he's wearing is
11 even close to visible, then we're going to be providing the
12 jurors with a limiting instruction.

13 So while I'm on that topic, you might want to meet and
14 confer.

06:42:18 15 I know you're all busy. We do have a little time left
16 today. You might want to meet and confer and discuss what
17 type of limiting instruction you would like the Court to
18 give, if for some reason we come to the conclusion that his
19 or her disguise is going to be apparent or visible.

06:42:36 20 So think about what exactly what kind of limiting
21 instruction you would like me to give because I think we
22 need to do that, and certainly contemplate that in any
23 event.

24 So think about that. That way we can have that -- I
06:42:49 25 would really like to have that hammered out before 9:30 in

1 the event the disguise can be, again, at least even arguably
2 can be seen, just based on how close that witness is going
3 to be to those jurors.

4 All right? Any other questions on behalf of the
06:43:03 5 government?

6 MR. SHEPHERD: No, Your Honor.

7 THE COURT: On behalf of the defendant?

8 MR. DOUGHTEN: No, Your Honor.

9 THE COURT: All right. We'll see you tomorrow
06:43:10 10 morning. Thank you very much for your courtesy.

11 (Proceedings adjourned at 3:50 p.m.)
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C E R T I F I C A T E

I certify that the forgoing is a correct transcript from the record of proceedings in the above-entitled matter.

S/Caroline Mahnke 3/8/18

Caroline Mahnke, RMR, CRR Date

S/Lori A. Callahan 3/8/18

Lori A. Callahan, RMR, CRR Date